

House Bill 2101

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Office of the Governor)

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**.

Creates Oregon Homeland Security Department. Abolishes Office of Emergency Management and transfers functions to Oregon Homeland Security Department. Abolishes Interagency Hazard Communication Council. Transfers office of State Fire Marshal from Department of State Police to Oregon Homeland Security Department. Transfers certain offices and divisions from Department of State Police to Oregon Homeland Security Department.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to Oregon security; creating new provisions; amending ORS 183.457, 195.260, 264.348,
3 401.025, 401.055, 401.270, 401.275, 401.280, 401.337, 401.347, 401.385, 401.395, 401.425, 401.435,
4 401.445, 401.490, 401.500, 401.535, 401.538, 401.543, 401.546, 401.550, 401.555, 401.560, 401.573,
5 401.576, 401.654, 401.710, 401.730, 401.735, 401.755, 401.785, 401.790, 401.806, 401.808, 401.816,
6 443.760, 453.307, 453.317, 453.342, 453.510, 453.517, 453.520, 453.825, 465.505, 466.620, 466.635,
7 468B.365, 469.533, 476.030, 476.130, 476.270, 476.515, 476.550, 476.680, 476.685, 478.940, 479.180,
8 480.122, 480.230, 480.450, 657.665, 731.820, 734.577, 824.088 and 837.035 and section 6, chapter
9 1059, Oregon Laws 1999; repealing ORS 401.260, 453.527, 476.020 and 476.050; appropriating
10 money; and declaring an emergency.

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

12 **SECTION 1. Section 2 of this 2005 Act is added to and made a part of ORS 401.260 to**
13 **401.325.**

14 **SECTION 2. (1) The Oregon Homeland Security Department is established.**

15 **(2) The department shall be responsible for:**

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

18 **(b) Coordinating planning, preparedness, response and recovery activities with state and**
19 **local emergency services agencies and organizations.**

20 **SECTION 3. (1) The Oregon Homeland Security Department is under the supervision and**
21 **control of a director, who is responsible for the performance of the duties, functions and**
22 **powers of the department.**

23 **(2) The Governor shall appoint the Director of the Oregon Homeland Security Depart-**
24 **ment, who holds office at the pleasure of the Governor.**

25 **(3) The director shall be paid a salary as provided by law or, if not so provided, as pre-**
26 **scribed by the Governor.**

27 **(4) For purposes of administration, subject to the approval of the Governor, the director**
28 **may organize and reorganize the department as the director considers necessary to properly**

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.

1 conduct the work of the department.

2 (5) The director may divide the functions of the department into administrative divisions.
 3 Subject to the approval of the Governor, the director may appoint an individual to administer
 4 each division. The administrator of each division serves at the pleasure of the director and
 5 is not subject to the provisions of ORS chapter 240. Each individual appointed under this
 6 subsection must be well qualified by technical training and experience in the functions to be
 7 performed by the individual.

8 **SECTION 4.** (1) The Director of the Oregon Homeland Security Department may, by
 9 written order filed with the Secretary of State, appoint a deputy director. The deputy direc-
 10 tor serves at the pleasure of the director, has authority to act for the director in the absence
 11 of the director and is subject to the control of the director at all times.

12 (2) Subject to any applicable provisions of ORS chapter 240, the director shall appoint all
 13 subordinate officers and employees of the Oregon Homeland Security Department, prescribe
 14 their duties and fix their compensation.

15 **SECTION 5.** In accordance with applicable provisions of ORS chapter 183, the Director
 16 of the Oregon Homeland Security Department may adopt rules necessary for the adminis-
 17 tration of the laws that the Oregon Homeland Security Department is charged with admin-
 18 istering.

19 **SECTION 6.** (1) To aid and advise the Director of the Oregon Homeland Security De-
 20 partment in the performance of the functions of the Oregon Homeland Security Department,
 21 the director may establish such advisory and technical committees as the director considers
 22 necessary. The committees may be continuing or temporary. The director shall determine
 23 the representation, membership, terms and organization of the committees and shall appoint
 24 their members. The director is an ex officio member of each committee.

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

29 **SECTION 7.** The Director of the Oregon Homeland Security Department may enter into
 30 interagency agreements with other state agencies that the director determines are necessary
 31 to carry out the purposes of the Oregon Homeland Security Department.

32 **SECTION 8.** (1) The following departments shall designate a person within each depart-
 33 ment to act as a liaison with the Oregon Homeland Security Department:

- 34 (a) The Department of Transportation;
- 35 (b) The State Department of Agriculture;
- 36 (c) The Department of Environmental Quality;
- 37 (d) The Department of Human Services; and
- 38 (e) The State Department of Energy.

39 (2) The person designated as a liaison under subsection (1) of this section shall assist in
 40 the coordination of the functions of the person's department that relate to emergency
 41 preparedness and response with similar functions of the Oregon Homeland Security Depart-
 42 ment.

43 **SECTION 9.** (1) The Office of Emergency Management in the Department of State Police
 44 is abolished. On the operative date of this section, the tenure of office of the Director of the
 45 Office of Emergency Management ceases.

1 (2) All the duties, functions and powers of the Office of Emergency Management are
 2 imposed upon, transferred to and vested in the Oregon Homeland Security Department.

3 **SECTION 10.** (1) The Superintendent of State Police shall:

4 (a) Deliver to the Oregon Homeland Security Department all records and property within
 5 the jurisdiction of the superintendent that relate to the duties, functions and powers trans-
 6 ferred by section 9 of this 2005 Act; and

7 (b) Transfer to the Oregon Homeland Security Department those employees engaged
 8 primarily in the exercise of the duties, functions and powers transferred by section 9 of this
 9 2005 Act.

10 (2) The Director of the Oregon Homeland Security Department shall take possession of
 11 the records and property, and shall take charge of the employees and employ them in the
 12 exercise of the duties, functions and powers transferred by section 9 of this 2005 Act, without
 13 reduction of compensation but subject to change or termination of employment or compen-
 14 sation as provided by law.

15 (3) The Governor shall resolve any dispute between the Office of Emergency Management
 16 and the Oregon Homeland Security Department relating to transfers of records, property and
 17 employees under this section, and the Governor's decision is final.

18 **SECTION 11.** (1) The unexpended balances of amounts authorized to be expended by the
 19 Office of Emergency Management for the biennium beginning July 1, 2005, from revenues
 20 dedicated, continuously appropriated, appropriated or otherwise made available for the pur-
 21 pose of administering and enforcing the duties, functions and powers transferred by section
 22 9 of this 2005 Act are appropriated and transferred to and are available for expenditure by
 23 the Oregon Homeland Security Department for the biennium beginning July 1, 2005, for the
 24 purpose of administering and enforcing the duties, functions and powers transferred by sec-
 25 tion 9 of this 2005 Act.

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

29 **SECTION 12.** The transfer of duties, functions and powers to the Oregon Homeland Se-
 30 curity Department by section 9 of this 2005 Act does not affect any action, proceeding or
 31 prosecution involving or with respect to such duties, functions and powers begun before and
 32 pending at the time of the transfer, except that the Oregon Homeland Security Department
 33 is substituted for the Office of Emergency Management in the action, proceeding or prose-
 34 cution.

35 **SECTION 13.** (1) Nothing in sections 9 to 12 of this 2005 Act relieves a person of a li-
 36 ability, duty or obligation accruing under or with respect to the duties, functions and powers
 37 transferred by section 9 of this 2005 Act. The Oregon Homeland Security Department may
 38 undertake the collection or enforcement of any such liability, duty or obligation.

39 (2) The rights and obligations of the Office of Emergency Management legally incurred
 40 under contracts, leases and business transactions executed, entered into or begun before the
 41 operative date of section 9 of this 2005 Act are transferred to the Oregon Homeland Security
 42 Department. For the purpose of succession to these rights and obligations, the Oregon
 43 Homeland Security Department is a continuation of the Office of Emergency Management
 44 and not a new authority.

45 **SECTION 14.** Notwithstanding the transfer of duties, functions and powers by section 9

1 of this 2005 Act, the rules of the Office of Emergency Management in effect on the operative
 2 date of section 9 of this 2005 Act continue in effect until superseded or repealed by rules of
 3 the Oregon Homeland Security Department. References in rules of the Office of Emergency
 4 Management to the Office of Emergency Management or an officer or employee of the Office
 5 of Emergency Management are considered to be references to the Oregon Homeland Security
 6 Department or an officer or employee of the Oregon Homeland Security Department.

7 **SECTION 15.** Whenever, in any uncodified law or resolution of the Legislative Assembly
 8 or in any rule, document, record or proceeding authorized by the Legislative Assembly, ref-
 9 erence is made to the Office of Emergency Management or an officer or employee of the
 10 Office of Emergency Management, the reference is considered to be a reference to the
 11 Oregon Homeland Security Department or an officer or employee of the Oregon Homeland
 12 Security Department.

13 **SECTION 16.** The duties, functions and powers of the following offices and divisions
 14 within the Department of State Police are imposed upon, transferred to and vested in the
 15 Oregon Homeland Security Department:

16 (1) The office of the State Fire Marshal;

17 (2) Divisions that administer federal grant programs aimed at reducing drug use and vi-
 18 olent crime and improving the effectiveness of the criminal justice system; and

19 (3) Offices that conduct investigations of international and domestic terrorism, that co-
 20 ordinate federal and local investigations of international and domestic terrorism and that are
 21 involved in domestic preparedness issues and intelligence matters.

22 **SECTION 17.** (1) The Superintendent of State Police shall:

23 (a) Deliver to the Oregon Homeland Security Department all records and property within
 24 the jurisdiction of the superintendent that relate to the duties, functions and powers trans-
 25 ferred by section 16 of this 2005 Act; and

26 (b) Transfer to the Oregon Homeland Security Department those employees engaged
 27 primarily in the exercise of the duties, functions and powers transferred by section 16 of this
 28 2005 Act.

29 (2) The Director of the Oregon Homeland Security Department shall take possession of
 30 the records and property, and shall take charge of the employees and employ them in the
 31 exercise of the duties, functions and powers transferred by section 16 of this 2005 Act,
 32 without reduction of compensation but subject to change or termination of employment or
 33 compensation as provided by law.

34 (3) The Governor shall resolve any dispute between the Department of State Police and
 35 the Oregon Homeland Security Department relating to transfers of records, property and
 36 employees under this section, and the Governor's decision is final.

37 **SECTION 18.** (1) The unexpended balances of amounts authorized to be expended by an
 38 office or a division listed in section 16 of this 2005 Act for the biennium beginning July 1,
 39 2005, from revenues dedicated, continuously appropriated, appropriated or otherwise made
 40 available for the purpose of administering and enforcing the duties, functions and powers
 41 transferred by section 16 of this 2005 Act are appropriated and transferred to and are avail-
 42 able for expenditure by the Oregon Homeland Security Department for the biennium begin-
 43 ning July 1, 2005, for the purpose of administering and enforcing the duties, functions and
 44 powers transferred by section 16 of this 2005 Act.

45 (2) The expenditure classifications, if any, established by Acts authorizing or limiting

1 expenditures by an office or a division listed in section 16 of this 2005 Act remain applicable
2 to expenditures by the Oregon Homeland Security Department under this section.

3 **SECTION 19.** The transfer of duties, functions and powers to the Oregon Homeland Se-
4 curity Department by section 16 of this 2005 Act does not affect any action, proceeding or
5 prosecution involving or with respect to such duties, functions and powers begun before and
6 pending at the time of the transfer, except that the Oregon Homeland Security Department
7 is substituted for the office or division in the action, proceeding or prosecution.

8 **SECTION 20.** (1) Nothing in sections 16 to 19 of this 2005 Act relieves a person of a li-
9 ability, duty or obligation accruing under or with respect to the duties, functions and powers
10 transferred by section 16 of this 2005 Act. The Oregon Homeland Security Department may
11 undertake the collection or enforcement of any such liability, duty or obligation.

12 (2) The rights and obligations of an office or a division listed in section 16 of this 2005
13 Act legally incurred under contracts, leases and business transactions executed, entered into
14 or begun before the operative date of section 16 of this 2005 Act accruing under or with re-
15 spect to the duties, functions and powers transferred by section 16 of this 2005 Act are
16 transferred to the Oregon Homeland Security Department. For the purpose of succession to
17 these rights and obligations, the Oregon Homeland Security Department is a continuation
18 of the office or the division listed in section 16 of this 2005 Act and not a new authority.

19 **SECTION 21.** Notwithstanding the transfer of duties, functions and powers by section 16
20 of this 2005 Act, the rules of an office or a division listed in section 16 of this 2005 Act with
21 respect to such duties, functions or powers that are in effect on the operative date of section
22 16 of this 2005 Act continue in effect until superseded or repealed by rules of the Oregon
23 Homeland Security Department. References in such rules of the office or the division to the
24 office or the division or an officer or employee of the office or the division are considered
25 to be references to the Oregon Homeland Security Department or an officer or employee of
26 the Oregon Homeland Security Department.

27 **SECTION 22.** Whenever, in any uncodified law or resolution of the Legislative Assembly
28 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
29 the context of the duties, functions and powers transferred by section 16 of this 2005 Act,
30 reference is made to an office or a division listed in section 16 of this 2005 Act or an officer
31 or employee of the office or the division, whose duties, functions or powers are transferred
32 by section 16 of this 2005 Act, the reference is considered to be a reference to the Oregon
33 Homeland Security Department or an officer or employee of the Oregon Homeland Security
34 Department who by this 2005 Act is charged with carrying out such duties, functions and
35 powers.

36 **SECTION 23.** (1) The Interagency Hazard Communication Council is abolished. On the
37 operative date of this section, the tenure of the members of the council ceases.

38 (2) All the duties, functions and powers of the Interagency Hazard Communication
39 Council are imposed upon, transferred to and vested in the Oregon Homeland Security De-
40 partment.

41 (3) The chairperson of the Interagency Hazard Communication Council shall deliver to
42 the Oregon Homeland Security Department all records and property within the jurisdiction
43 of the council that relate to the duties, functions and powers transferred by this section.

44 **SECTION 24.** The Director of the Oregon Homeland Security Department may be ap-
45 pointed before the operative date of sections 9, 16 and 23 of this 2005 Act and may take any

1 action before that date that is necessary to enable the director to exercise, on and after the
 2 operative date of sections 9, 16 and 23 of this 2005 Act, the duties, functions and powers of
 3 the director pursuant to sections 9, 16 and 23 of this 2005 Act.

4 **SECTION 25.** Except as otherwise specifically provided in section 24 of this 2005 Act,
 5 sections 1 to 23 of this 2005 Act and the amendments to statutes by sections 26 to 93 of this
 6 2005 Act and the repeal of statutes by section 94 of this 2005 Act become operative on Jan-
 7 uary 1, 2006.

8 **SECTION 26.** ORS 401.025 is amended to read:

9 401.025. As used in ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, unless the
 10 context requires otherwise:

11 (1) "Beneficiary" has the meaning given that term in ORS 656.005.

12 (2) "Commission" means the Seismic Safety Policy Advisory Commission established under ORS
 13 401.337.

14 [(3) "Director" means the Director of the Office of Emergency Management.]

15 [(4) (3) "Emergency" includes any [man-made] **human caused** or natural event or circumstance
 16 causing or threatening loss of life, injury to person or property, human suffering or financial loss,
 17 and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake,
 18 volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466.605, contam-
 19 ination, utility or transportation emergencies, disease, blight, infestation, crisis influx of migrants
 20 unmanageable by the county, civil disturbance, riot, sabotage and war.

21 [(5) (4) "Emergency management agency" means an organization created and authorized under
 22 ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 by the state, county or city to
 23 provide for and assure the conduct and coordination of functions for comprehensive emergency
 24 program management.

25 [(6) (5) "Emergency program management" includes all the tasks and activities necessary to
 26 provide, support and maintain the ability of the emergency services system to prevent or reduce the
 27 impact of emergency or disaster conditions which includes, but is not limited to, coordinating de-
 28 velopment of plans, procedures, policies, fiscal management, coordination with nongovernmental
 29 agencies and organizations, providing for a coordinated communications and alert and notification
 30 network and a public information system, personnel training and development and implementation
 31 of exercises to routinely test the emergency services system.

32 [(7) (6) "Emergency program manager" means the person administering the emergency man-
 33 agement agency of a county or city.

34 [(8) (7) "Emergency service agency" means an organization within a local government which
 35 performs essential services for the public's benefit prior to, during or following an emergency. This
 36 includes, but is not limited to, organizational units within local governments, such as law enforce-
 37 ment, fire control, health, medical and sanitation services, public works and engineering, public in-
 38 formation and communications.

39 [(9) (8) "Emergency service worker" means an individual who, under the direction of an emer-
 40 gency service agency or emergency management agency, performs emergency services and:

41 (a) Is a registered volunteer or independently volunteers to serve without compensation and is
 42 accepted by the [office] **Oregon Homeland Security Department** or the emergency management
 43 agency of a county or city; or

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

1 [(10)] (9) “Emergency services” includes those activities provided by state and local government
 2 agencies with emergency operational responsibilities to prepare for and carry out any activity to
 3 prevent, minimize, respond to or recover from an emergency. These activities include, without limi-
 4 tation, coordination, preparedness planning, training, interagency liaison, fire fighting, oil or haz-
 5 ardous material spill or release cleanup as defined in ORS 466.605, law enforcement, medical, health
 6 and sanitation services, engineering and public works, search and rescue activities, warning and
 7 public information, damage assessment, administration and fiscal management, and those measures
 8 defined as “civil defense” in section 3 of the Act of January 12, 1951, P.L. 81-920 (50 U.S.C. 2252).

9 [(11)] (10) “Emergency services system” means that system composed of all agencies and or-
 10 ganizations involved in the coordinated delivery of emergency services.

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

14 [(13)] (12) “Local government” means any governmental entity authorized by the laws of this
 15 state.

16 [(14)] (13) “Major disaster” means any event defined as a “major disaster” [*by the Act of May*
 17 *22, 1974, P.L. 93-288*] **under 42 U.S.C. 5122(2).**

18 [(15)] “Office” means the *Office of Emergency Management of the Department of State Police.*]

19 [(16)] (14) “Oregon emergency management plan” means the state emergency preparedness op-
 20 erations and management plan. The [*Office of Emergency Management*] **Oregon Homeland Security**
 21 **Department** is responsible for coordinating emergency planning with government agencies and
 22 private organizations, preparing the plan for the Governor’s signature, and maintaining and updating
 23 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
 27 out by the Oregon Department of Aviation.

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

29 **SECTION 27.** ORS 401.055 is amended to read:

30 401.055. (1) The Governor may declare a state of emergency by proclamation at the request of
 31 a county governing body or after determining that an emergency has occurred or is imminent.

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

36 (a) A certification signed by the county governing body that all local resources have been ex-
 37 pended; and

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

39 (3)(a) If, in the judgment of the [*Superintendent of State Police*] **Director of the Oregon**
 40 **Homeland Security Department,** the Governor cannot be reached by available communications
 41 facilities in time to respond appropriately to an emergency, the [*superintendent*] **director** shall notify
 42 the Secretary of State or, if the Secretary of State is not available, the State Treasurer that the
 43 Governor is not available.

44 (b) After notice from the [*superintendent*] **director** that the Governor is not available, the
 45 elected state official so notified may declare a state of emergency pursuant to the provisions of

1 subsections (1) and (2) of this section.

2 (c) If the [*Superintendent of State Police*] **director** is unavailable to carry out the duties de-
 3 scribed in this subsection, such duties shall be performed by the [*Director of the Office of Emergency*
 4 *Management*] **Superintendent of State Police**.

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

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

12 **SECTION 28.** ORS 401.270 is amended to read:

13 401.270. The Director of the [*Office of Emergency Management*] **Oregon Homeland Security**
 14 **Department** shall be responsible for coordinating and facilitating emergency planning,
 15 preparedness, response and recovery activities with the state and local emergency services agencies
 16 and organizations, and shall, [*with the approval of the Superintendent of State Police or*] as directed
 17 by the Governor:

18 (1) Make rules that are necessary and proper for the administration and implementation of ORS
 19 401.015 to 401.105, 401.260 to 401.325, 401.355 to 401.580 and 401.706;

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

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

24 (4) Have such additional authority, duties and responsibilities authorized by ORS 401.015 to
 25 401.105, 401.260 to 401.325 and 401.355 to 401.580 or as may be directed by the Governor;

26 (5) Administer grants relating to emergency program management and emergency services for
 27 the state;

28 (6) Provide for and staff a State Emergency Operations Center to aid the Governor and the
 29 [*Office of Emergency Management*] **Oregon Homeland Security Department** in the performance of
 30 duties under ORS 401.015 to 401.105, 401.260 to 401.325, 401.355 to 401.580 and 401.706;

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

33 (8) Establish training and professional standards for local emergency program management per-
 34 sonnel;

35 (9) Establish task forces and advisory groups to assist the [*office*] **department** in achieving
 36 mandated responsibilities; and

37 (10) Enforce compliance requirements of federal and state agencies for receiving funds and
 38 conducting designated emergency functions.

39 **SECTION 29.** ORS 401.275 is amended to read:

40 401.275. (1) The [*Department of State Police*] **Oregon Homeland Security Department** shall
 41 maintain a system for the notification and interagency coordination of state resources in response
 42 to [*natural and technological*] emergencies [*and civil disorder*] involving multijurisdictional cooper-
 43 ation between the various levels of government and private business entities.

44 (2) The **Oregon Homeland Security Department shall manage the** notification system [*shall*
 45 *be managed by the Office of Emergency Management*] as a continuously available communications

1 network and a component of the state’s emergency operations center.

2 (3) The notification system shall be the primary point of contact by which any public agency
 3 provides the state notification of an emergency or disaster, or requests access to state and federal
 4 resources.

5 (4) Each department of state government, and those agencies of state government identified in
 6 the Oregon emergency management plan with emergency service or administrative responsibilities,
 7 shall appoint an emergency management coordinator as their representative to work with the
 8 [office] **Oregon Homeland Security Department** on the development and implementation of emer-
 9 gency plans and procedures.

10 (5) The [Department of State Police] **Oregon Homeland Security Department** shall adopt rules
 11 relating to the planning, administration and operation of the notification system maintained under
 12 this section.

13 **SECTION 30.** ORS 401.280 is amended to read:

14 401.280. (1) The [Office of Emergency Management] **Oregon Homeland Security Department** is
 15 designated as the sole agency of the State of Oregon for the purpose of negotiating agreements with
 16 the Federal Emergency Management Agency or other appropriate federal agency, on behalf of the
 17 state, for the acquisition of federal funds for the purpose of providing emergency program manage-
 18 ment and emergency services. All city or county emergency management programs, emergency ser-
 19 vice agencies and state agencies applying for such funds shall coordinate with the [Office of
 20 Emergency Management] **department** on development of proposals and shall submit applications to
 21 the [agency] **department** to be reviewed or processed, or both.

22 (2) The [office] **department** is authorized to accept and receive on behalf of the state, counties
 23 and cities federal funds for purpose of emergency program management and emergency services, to
 24 deposit such funds in the [Emergency Management] **Homeland Security** Revolving Account and to
 25 authorize the disbursement and distribution of these funds in accordance with the applicable agree-
 26 ment.

27 **SECTION 31.** ORS 401.337 is amended to read:

28 401.337. (1) There is established a Seismic Safety Policy Advisory Commission consisting of the
 29 following members:

30 (a) The chief officer or the chief officer’s designee of the following:

- 31 (A) Department of Consumer and Business Services;
- 32 (B) State Department of Geology and Mineral Industries;
- 33 (C) Department of Land Conservation and Development;
- 34 (D) Department of Transportation; and
- 35 [(E) Office of Emergency Management of the Department of State Police; and]
- 36 **(E) Oregon Homeland Security Department; and**

37 (b) Thirteen members appointed by the Governor as follows:

- 38 (A) One representative of local government;
- 39 (B) Six members representing the public interest, including:
 - 40 (i) One representative of a school district, community college or university;
 - 41 (ii) Two members of the Legislative Assembly; and
 - 42 (iii) Three members of the general public; and
- 43 (C) Six members representing affected industries or stakeholders.

44 (2) The term of office of each member, except a member of the Legislative Assembly, appointed
 45 under subsection (1)(b) of this section is four years, but a member serves at the pleasure of the

1 Governor. The term of office of a member of the Legislative Assembly expires at the end of the term
 2 for which the member is elected. Before the expiration of the term of a member, the Governor shall
 3 appoint a successor whose term begins on July 1 next following. A member is eligible for reap-
 4 pointment. If there is a vacancy for any cause, the Governor shall make an appointment to become
 5 immediately effective for the unexpired term.

6 **SECTION 32.** ORS 401.347 is amended to read:

7 401.347. The [*Office of Emergency Management*] **Oregon Homeland Security Department** shall
 8 provide technical, clerical and other necessary support services to the **Seismic Safety Policy Ad-**
 9 **visory** Commission. The Department of Consumer and Business Services, the Department of Human
 10 Services, the State Department of Geology and Mineral Industries, the Department of Land Con-
 11 servation and Development, the Department of Transportation, the Water Resources Department and
 12 the Oregon University System shall provide assistance, as required, to the commission to enable it
 13 to meet its objectives.

14 **SECTION 33.** ORS 401.385 is amended to read:

15 401.385. Each emergency program manager of an emergency management agency shall maintain
 16 a record of enrollment of emergency service workers who are personnel of the agency. Each record
 17 shall contain the name and address of the worker, the name of the employer of the worker, date of
 18 enrollment and authorized classification of assignment to duty, including the times of assigned duty,
 19 as well as changes in enrollment. The record forms shall be supplied by the [*Office of Emergency*
 20 *Management*] **Oregon Homeland Security Department**. Records of membership in the Oregon State
 21 Defense Force shall be maintained by the Military Department of the State of Oregon.

22 **SECTION 34.** ORS 401.395 is amended to read:

23 401.395. If an emergency service worker sustains an injury, benefits shall be paid in the same
 24 manner as provided for injured workers under the workers' compensation laws of this state, except
 25 that:

26 (1) If the injury results in temporary partial disability, no benefits shall accrue to the injured
 27 emergency service worker on account of loss of wages due to such disability.

28 (2) Costs of rehabilitation services to disabled emergency service workers shall be paid from
 29 funds specifically appropriated therefor in an amount approved by the [*Office of Emergency Man-*
 30 *agement*] **Oregon Homeland Security Department**, which shall be the reasonable and necessary
 31 cost of such services, including services of a physician or rehabilitation facility specially qualified
 32 to render rehabilitation services. Expenses of rehabilitation may include travel, board and room,
 33 when necessary.

34 (3) The maximum amount payable for medical, surgical or hospital expenses, compensation and
 35 rehabilitation on any one claim shall not exceed \$20,000.

36 **SECTION 35.** ORS 401.425 is amended to read:

37 401.425. (1) Claims for benefits under ORS 401.355 to 401.465 shall be filed by application with
 38 the [*Office of Emergency Management*] **Oregon Homeland Security Department** in the manner
 39 provided by rules of the department [*of State Police*].

40 (2) The right to benefits under ORS 401.355 to 401.465 shall be barred unless written claim is
 41 filed with the [*office*] **department** within 90 days after the injury, or, if death results therefrom,
 42 within 90 days after death. However, if death occurs more than one year after the injury, the right
 43 shall be barred unless prior written claim based on the injury has been timely filed. The require-
 44 ments of this subsection may be waived by the [*office*] **department** on the ground that, for good and
 45 sufficient reason, claim could not be filed on time.

1 **SECTION 36.** ORS 401.435 is amended to read:

2 401.435. Any question of law or fact may be appealed to the circuit court of the county where
3 the injury occurred within 30 days from the date of mailing of the final decision by the [*Office of*
4 *Emergency Management*] **Oregon Homeland Security Department**, if the emergency service worker
5 is dissatisfied with the final decision.

6 **SECTION 37.** ORS 401.445 is amended to read:

7 401.445. If funds are not available to the [*Office of Emergency Management*] **Oregon Homeland**
8 **Security Department** to pay claims approved under ORS 401.355 to 401.465, the department [*of*
9 *State Police*] shall request allocation of necessary funds from the Emergency Board if the unavail-
10 ability occurs during the interim between sessions of the Legislative Assembly. If the unavailability
11 occurs during a session, the department [*of State Police*] shall request the Joint Committee on Ways
12 and Means to submit legislation necessary to provide such funds.

13 **SECTION 38.** ORS 401.490 is amended to read:

14 401.490. In carrying out the provisions of ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355
15 to 401.580, the Governor and the executive officers or governing bodies of the counties and cities
16 may request and utilize the services, equipment, supplies and facilities of existing departments, of-
17 fices and agencies of the state and of local governments. The officers and personnel of all local
18 government departments, offices and agencies may cooperate with, and extend such services and
19 facilities to the Governor, to the [*Office of Emergency Management*] **Oregon Homeland Security**
20 **Department** and to emergency management agencies and emergency service agencies upon request.

21 **SECTION 39.** ORS 401.500 is amended to read:

22 401.500. The state shall reimburse a local government for the compensation paid and the actual
23 and necessary travel, subsistence and maintenance expenses of employees of the local government
24 while actually serving at the direction of the Governor or the Director of the [*Office of Emergency*
25 *Management*] **Oregon Homeland Security Department** in a state function or capacity.

26 **SECTION 40.** ORS 401.535 is amended to read:

27 401.535. There hereby is created in the General Fund in the State Treasury an account to be
28 known as the [*Emergency Management*] **Homeland Security** Revolving Account. All contributions,
29 grants-in-aid or other moneys received or collected by the [*Office of Emergency Management of the*
30 *Department of State Police*] **Oregon Homeland Security Department**, and any other funds con-
31 tributed, granted or appropriated for transfer to the revolving account under authority of law shall
32 be placed in the General Fund and credited to the [*Emergency Management*] **Homeland Security**
33 Revolving Account, which account hereby is appropriated for the purpose of this section. The
34 [*office*] **department** may use the revolving account to pay for the purchase of organizational and
35 mobile support equipment and surplus property, for shelter construction, administration and personal
36 services, when the purchase or expense is incurred pursuant to the [*office's*] **department's** agree-
37 ments with the federal government, other state agencies or political subdivisions of the state.

38 **SECTION 41.** ORS 401.538 is amended to read:

39 401.538. (1) Each state or local agency shall drill agency employees working in office buildings
40 on emergency procedures so that the employees may respond to an earthquake emergency without
41 confusion or panic. The agencies shall conduct the drills in accordance with [*Office of Emergency*
42 *Management*] **Oregon Homeland Security Department** rules. The drills must include familiariza-
43 tion with routes and methods of exiting the building and methods of "duck, cover and hold" during
44 an earthquake. An agency shall conduct the drills annually. The [*Office of Emergency Management*]
45 **department** may, by rule or on application, grant exemptions from the drill requirement for good

1 cause.

2 (2) As used in this section, “state or local agency” means a state or local office, department,
 3 division, bureau, board or commission that is assigned, renting, leasing, owning or controlling office
 4 space for carrying out its duties. “State or local agency” includes the Legislative Assembly when
 5 in regular session.

6 **SECTION 42.** ORS 401.543 is amended to read:

7 401.543. A person employing 250 or more full-time employees within this state shall drill em-
 8 ployees working in office buildings on emergency procedures so that the employees may respond to
 9 an earthquake emergency without confusion or panic. The person shall conduct the drills in ac-
 10 cordance with [*Office of Emergency Management*] **Oregon Homeland Security Department** rules.
 11 The drills must include familiarization with routes and methods of exiting the building and methods
 12 of “duck, cover and hold” during an earthquake. The [*employer*] **person** shall conduct the drills an-
 13 nually during the month of April. The [*Office of Emergency Management*] **department** may, by rule
 14 or on application, grant exemptions from the drill requirement for good cause.

15 **SECTION 43.** ORS 401.546 is amended to read:

16 401.546. The [*Office of Emergency Management*] **Oregon Homeland Security Department**, in
 17 consultation with the State Department of Geology and Mineral Industries, shall adopt rules gov-
 18 erning the conduct of earthquake emergency drills required by ORS 401.538 and 401.543. In addition
 19 to the [*office*] **Oregon Homeland Security Department** submitting the rules for publication pursu-
 20 ant to ORS 183.360, the [*office*] **Oregon Homeland Security Department** and the **State Department**
 21 **of Geology and Mineral Industries** shall each post the rules on an electronic bulletin board, home
 22 page or similar site.

23 **SECTION 44.** ORS 401.550 is amended to read:

24 401.550. The Director of the [*Office of Emergency Management*] **Oregon Homeland Security**
 25 **Department** shall appoint a Search and Rescue Coordinator to:

- 26 (1) Coordinate the search and rescue function of the [*Office of Emergency Management*] **Oregon**
 27 **Homeland Security Department**;
- 28 (2) Coordinate the activities of state and federal agencies involved in search and rescue;
- 29 (3) Establish liaison with the Oregon State Sheriffs’ Association and other public and private
 30 organizations and agencies involved in search and rescue;
- 31 (4) Provide on-scene search and rescue coordination when requested by an authorized person;
- 32 (5) Coordinate and process requests for the use of emergency service workers and equipment;
- 33 (6) Assist in developing training and outdoor education programs;
- 34 (7) Gather statistics in search and rescue operations; and
- 35 (8) Gather and disseminate resource information of personnel, equipment and materials available
 36 for search and rescue.

37 **SECTION 45.** ORS 401.555 is amended to read:

38 401.555. The [*Office of Emergency Management of the Department of State Police*] **Oregon**
 39 **Homeland Security Department** shall establish and maintain a program for the air search and
 40 rescue of lost aircraft and persons and for the air support of other emergency situations. The pro-
 41 gram established under this section may include, but [*shall*] **is** not [*be*] limited to, the following:

- 42 (1) The formation of a volunteer air search and rescue organization and provision of appropriate
 43 training to this organization.
- 44 (2) Directing, coordinating and performing air activities in conjunction with air search and res-
 45 cue and other emergency situations.

1 (3) Entering into agreements with private persons, volunteer organizations, and federal, state
2 and local agencies for air search and rescue and other emergency activities.

3 (4) Such other related activities as may be deemed necessary and appropriate by the Director
4 of the [*Office of Emergency Management*] **Oregon Homeland Security Department**.

5 **SECTION 46.** ORS 401.560 is amended to read:

6 401.560. (1) The sheriff of each county has the responsibility for search and rescue activities
7 within the county. The duty of a sheriff under this subsection may be delegated to a qualified
8 deputy or emergency service worker.

9 (2) If the sheriff does not accept the responsibility for search and rescue activities, the chief
10 executive of the county shall designate the county emergency program manager to perform the du-
11 ties and responsibilities required under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to
12 401.580.

13 (3) The sheriff or authorized person of each county shall notify the [*Office of Emergency Man-*
14 *agement*] **Oregon Homeland Security Department** of each search and rescue in the county and
15 shall request the assignment of incident numbers therefor.

16 (4) The sheriff or authorized person of each county shall work with the county emergency pro-
17 gram manager in coordinating search and rescue activities in the county of the sheriff and in reg-
18 istering emergency service workers.

19 **SECTION 47.** ORS 401.573 is amended to read:

20 401.573. (1) The sheriff of each county shall adopt a search and rescue plan for the county. The
21 search and rescue plan shall set forth search and rescue policies for the county and shall describe
22 procedures for implementing those policies. A county search and rescue plan shall list and describe
23 materials, equipment and personnel available within the county for search and rescue incidents. The
24 plan shall also include:

25 (a) A detailed description of activities and circumstances that constitute search and rescue in
26 the county.

27 (b) Identification of volunteer organizations available to the county for use for search and res-
28 cue.

29 (c) Procedures for contacting and requesting assistance from volunteer organizations during
30 search and rescue activities.

31 (d) Procedures for contacting and requesting available assistance from other agencies and
32 groups.

33 (e) Minimum standards for individuals whose technical or professional skills may be required for
34 search and rescue.

35 (2) A county search and rescue plan adopted under this section shall require a person in charge
36 of a search and rescue to complete a fact sheet for the incident. The fact sheet shall contain the
37 incident number assigned under ORS 401.580 for search and rescue and such other information re-
38 quired under the search and rescue plan of the county.

39 (3) The sheriff of each county shall review and, if necessary or desirable, revise the search and
40 rescue plan annually. After the initial adoption of a search and rescue plan under this section and
41 after each annual review or revision of the plan, the sheriff shall submit the plan to the Search and
42 Rescue Coordinator appointed under ORS 401.550.

43 (4) The [*Office of Emergency Management*] **Oregon Homeland Security Department**, after
44 consultation with the Oregon State Sheriffs' Association, may establish guidelines for county search
45 and rescue plans.

1 (5) The [*Office of Emergency Management*] **department** shall annually publish and distribute to
 2 the sheriff of each county a search and rescue resource inventory, which shall include materials,
 3 equipment and personnel available from counties, agencies and the State of Oregon for use in search
 4 and rescue incidents.

5 **SECTION 48.** ORS 401.576 is amended to read:

6 401.576. After a search and rescue that, in the opinion of the sheriff, is other than routine or
 7 upon request for a critique from an individual directly involved in the incident, the sheriff of the
 8 county in which the search and rescue took place shall conduct a critique of the incident. As part
 9 of the critique, the sheriff shall examine the search and rescue report and may receive testimony
 10 and information from persons involved in the incident. When a critique of a search and rescue is
 11 conducted under this section, the sheriff shall prepare findings of fact concerning the search and
 12 rescue and may prepare recommendations for the conduct of future incidents or propose amendments
 13 to the search and rescue plan under which the search and rescue was conducted. If amendments to
 14 the search and rescue plan are proposed and adopted, the sheriff shall file the amended search and
 15 rescue plan with the [*Office of Emergency Management*] **Oregon Homeland Security Department**.

16 **SECTION 49.** ORS 401.654 is amended to read:

17 401.654. (1) The Department of Human Services may establish a registry of emergency health
 18 care providers who are available to provide health care services during an emergency or crisis. The
 19 department may require training related to the provision of health care services in an emergency
 20 or crisis as a condition of registration.

21 (2) The department shall issue identification cards to health care providers included in the reg-
 22 istry established under this section that:

23 (a) Identify the health care provider;

24 (b) Indicate that the health care provider is registered as an Oregon emergency health care
 25 provider;

26 (c) Identify the license or certification held by the health care provider; and

27 (d) Identify the health care provider's usual area of practice if that information is available and
 28 the department determines that it is appropriate to provide that information.

29 (3) The department by rule shall establish a form for identification cards issued under subsection
 30 (2) of this section.

31 (4) The department shall support and provide assistance to the [*Office of Emergency*
 32 *Management*] **Oregon Homeland Security Department** in emergencies or crises involving the
 33 public health or requiring emergency medical response.

34 **SECTION 50.** ORS 401.710 is amended to read:

35 401.710. As used in ORS 305.823 and 401.710 to 401.816, unless the context requires otherwise:

36 (1) "Account" means the Emergency Communications Account.

37 (2) "Central office" means a utility that houses the switching and trunking equipment serving
 38 telephones in a defined area.

39 (3) "Department" means the Department of Revenue.

40 (4) "Emergency call" means a telephone request that results from a situation where prompt
 41 service is essential to preserve human life or property.

42 (5) "Enhanced 9-1-1 telephone service" means 9-1-1 telephone service consisting of a network,
 43 database and on-premises equipment that provides automatic display at the designated public safety
 44 answering point of the address and telephone number at the time of receiving an incoming 9-1-1 call.

45 (6) "Exchange access services" means:

1 (a) Telephone exchange access lines or channels that provide local access by a subscriber in this
 2 state to the local telecommunications network to effect the transfer of information; and

3 (b) Unless a separate tariff rate is charged therefor, any facility or service provided in con-
 4 nection with the services described in paragraph (a) of this subsection.

5 (7) "Governing body" means the board of county commissioners of a county, city council of a
 6 city, other governing body of a city or county, board of directors of a special district or a 9-1-1 ju-
 7 risdiction.

8 (8) "Local government" has the meaning given that term in ORS 190.710.

9 [(9) "Office" means the Office of Emergency Management of the Department of State Police.]

10 [(10)] (9) "Provider" means a utility or other vendor or supplier of telecommunications service
 11 or equipment that provides telecommunications with access to the 9-1-1 emergency reporting system
 12 through local exchange service, cellular service or other wired or wireless means.

13 [(11)] (10) "Public or private safety agency" means any unit of state or local government, a
 14 special-purpose district or a private firm that provides or has authority to provide fire-fighting, po-
 15 lice, ambulance or emergency medical services.

16 [(12)] (11) "Public safety answering point" means a 24-hour communications facility established
 17 as an answering location for 9-1-1 calls originating within a given service area. A "primary public
 18 safety answering point" receives all calls directly from the public. A "secondary public safety an-
 19 swering point" only receives calls from a primary public safety answering point on a transfer or
 20 relay basis.

21 [(13)] (12) "Subscriber" means a person who has telecommunication access to the 9-1-1 emer-
 22 gency reporting system through local exchange service, cellular service or other wired or wireless
 23 means.

24 [(14)] (13) "TTY" means a telephone-typewriter used by a hearing or speech impaired person to
 25 communicate with another device or individual.

26 [(15)] (14) "Utility" means a utility as defined in ORS 759.005, a telecommunications carrier as
 27 defined in ORS 133.721 or a municipality or any provider of exchange access services.

28 [(16)] (15) "Vendor" means any corporation, company, individual or association, providing tele-
 29 phone customer premises equipment or equipment specific to the operation of enhanced 9-1-1 tele-
 30 phone service.

31 [(17)] (16) "9-1-1 emergency reporting system" means a telephone service that provides the users
 32 of a public telephone system the ability to reach a primary public safety answering point by calling
 33 9-1-1.

34 [(18)] (17) "9-1-1 jurisdiction" means an entity created under ORS chapter 190, a county service
 35 district established under ORS chapter 451 to provide an emergency communications system, an
 36 emergency communications district created under ORS 401.818 to 401.857 or a group of public or
 37 private safety agencies who have agreed in writing to jointly plan the installation, maintenance,
 38 operation or improvement of a 9-1-1 emergency reporting system.

39 [(19)] (18) "9-1-1 service area" means the geographical area that contains the entire central of-
 40 fice serving area from which the primary public safety answering point will have the capability to
 41 answer calls placed to 9-1-1.

42 **SECTION 51.** ORS 401.730 is amended to read:

43 401.730. (1) The [Office of Emergency Management] **Oregon Homeland Security Department**
 44 shall:

45 (a) Adopt rules in accordance with ORS chapter 183 relating to the planning, administration and

1 funding of 9-1-1 emergency reporting systems established pursuant to ORS 401.720.

2 (b) Upon request of a 9-1-1 jurisdiction, local government or governing body, assist in planning
 3 9-1-1 emergency reporting systems. In addition, the [office] **department** may at the request of a 9-1-1
 4 jurisdiction act as an agent of the 9-1-1 jurisdiction for the purposes of purchasing and maintaining
 5 equipment and services required to fulfill the requirements of ORS 401.720.

6 (c) Report biennially to the Legislative Assembly the progress made in implementing ORS
 7 305.823 and 401.710 to 401.816. The report shall include financial information concerning all re-
 8 venues collected, distributed and expended by state agencies and 9-1-1 jurisdictions, and all account
 9 and subaccount balances, for the purposes of complying with ORS 401.710 to 401.816.

10 (2) Notwithstanding subsection (1) of this section, the [office] **department may** [shall] not re-
 11 quire by rule or otherwise that the proposed or established 9-1-1 emergency reporting system of a
 12 9-1-1 jurisdiction meet any technical standards in addition to those provided in ORS 401.720.

13 (3) The [office] **department** may establish advisory committees and study groups to study and
 14 advise on the planning and administration of 9-1-1 emergency reporting systems, multijurisdictional
 15 9-1-1 emergency reporting systems and issues impacting 9-1-1 emergency reporting systems through-
 16 out the state.

17 **SECTION 52.** ORS 401.735 is amended to read:

18 401.735. (1) The [Office of Emergency Management] **Oregon Homeland Security Department**,
 19 by rule, shall adopt minimum standards for public safety telecommunications personnel, including
 20 but not limited to emergency telephone workers, as defined in ORS 243.736. In developing the stan-
 21 dards, the [office] **department** shall address the necessary multiagency support, coordination, plan-
 22 ning, administration and ongoing maintenance of a certification program which includes testing to
 23 determine whether workers subject to the standards are in compliance.

24 (2) The standards referred to in subsection (1) of this section shall not become operative until
 25 the Board on Public Safety Standards and Training determines that there has been an adequate
 26 personnel training period to permit compliance with the standards.

27 (3) The Board on Public Safety Standards and Training shall develop a recommended training
 28 program and a plan for implementing the training program to provide workers that are subject to
 29 the minimum standards referred to in subsection (1) of this section with the training necessary to
 30 comply with the standards. The implementation plan shall address the cost considerations of the
 31 training program both to state and local government agencies whose workers are subject to the
 32 minimum standards.

33 **SECTION 53.** ORS 401.755 is amended to read:

34 401.755. (1) Each 9-1-1 jurisdiction shall submit to the [Office of Emergency Management] **Oregon**
 35 **Homeland Security Department** in writing within 30 days any change made to the 9-1-1 emergency
 36 telephone system which alters the final plan or system description on file with the [office] **depart-**
 37 **ment**. Such changes may include, but are not limited to, the address of the public safety answering
 38 point, telephone numbers used to satisfy requirements set forth in ORS 401.720, director changes,
 39 agencies served by the 9-1-1 jurisdiction and method used to direct the 9-1-1 call once received by
 40 the primary public safety answering point.

41 (2) If an established 9-1-1 jurisdiction proposes to move its 9-1-1 emergency reporting system
 42 from one public safety answering point to another or a governing body proposes to establish a new
 43 9-1-1 jurisdiction with a new primary public safety answering point and if either of these proposals
 44 will result in control of the 9-1-1 emergency reporting system by an agency or agencies other than
 45 as identified in the final plan approved by the [office] **department** under ORS 401.750 (1987 Re-

1 placement Part), section 7, chapter 743, Oregon Laws 1991, or the system description filed with the
 2 [office] **department** under ORS 401.750 (5) (1987 Replacement Part), the 9-1-1 jurisdiction or gov-
 3 erning body shall submit a plan setting forth these changes to:

- 4 (a) The [Office of Emergency Management] **department**;
- 5 (b) Public and private safety agencies in the 9-1-1 service area; and
- 6 (c) Utilities which provide telephone service in the 9-1-1 service area.

7 (3) In addition to meeting the requirements of ORS 401.720 and rules adopted pursuant to ORS
 8 401.730, the plan shall include a description of all capital and recurring costs for the proposed 9-1-1
 9 emergency reporting system.

10 (4) The [office] **department** shall review the revised plan for compliance with this section, ORS
 11 401.720 and rules adopted pursuant to ORS 401.730 and, if the [office] **department** determines that
 12 the plan is in compliance, the [office] **department** shall approve the plan.

13 (5) The [office shall] **department may** not approve a plan submitted under this section unless
 14 the plan is accompanied by written approval of the governing bodies of all public and private safety
 15 agencies affected by or providing service in the 9-1-1 service area.

16 **SECTION 54.** ORS 401.785 is amended to read:

17 401.785. (1) All disputes between a governing body, 9-1-1 jurisdiction and public or private safety
 18 agency regarding a 9-1-1 system, not otherwise resolved in accordance with a written agreement
 19 shall be mediated. When a governing body or 9-1-1 jurisdiction obtains knowledge that a dispute
 20 exists and cannot be resolved by the agencies, it shall notify the [Office of Emergency Management]
 21 **Oregon Homeland Security Department** of the dispute in writing. Within 30 days of this notifi-
 22 cation, the disputing agencies shall mutually select a mediator and notify the [office] **department**
 23 in writing of this selection. If a mediator is not mutually selected by the agencies within this period,
 24 the Director of the [office] **Oregon Homeland Security Department** shall select a mediator from
 25 the list of mediators established under subsection (3) of this section. Once selected, the mediator
 26 shall establish a schedule for the mediation process. The disputing agencies shall have 60 days from
 27 the date the mediator is agreed upon or selected to mediate the dispute unless the agencies mutually
 28 agree in writing to an extension of this deadline. A copy of all extensions shall be submitted to the
 29 [office] **department**.

30 (2) When the mediation process in subsection (1) of this section ends, the mediator shall notify
 31 the [office] **department** in writing of the outcome of the mediation. If the agencies are not able to
 32 resolve their dispute through mediation, the 9-1-1 jurisdiction or governing body and public or pri-
 33 vate safety agency or agencies shall submit the dispute to arbitration. The agencies shall have 30
 34 days from the end of the mediation to select an arbitrator. If the disputing agencies are unable to
 35 mutually select an arbitrator within this period, the director [of the office] shall request the presiding
 36 judge for the judicial district in which the 9-1-1 system is located to select an arbitrator. The
 37 arbitrator shall have 30 days from selection to hear and decide the dispute unless the agencies mu-
 38 tually agree in writing to an extension of this deadline. A party to an arbitration under this sub-
 39 section may seek confirmation, vacation, modification or correction of the arbitrator's decision as
 40 provided in ORS 36.700, 36.705 and 36.710. A court may vacate a decision only if there is a basis to
 41 vacate the decision as described in ORS 36.705 (1)(a) to (d). The court may modify or correct a de-
 42 cision only for the grounds given in ORS 36.710.

43 (3) The [office] **department** shall establish a roster of mediators qualified to mediate disputes
 44 under subsection (1) of this section. This list may be used by the disputing agencies when selecting
 45 a mediator.

1 (4) Unless otherwise agreed upon, the costs of the mediation or arbitration, including the
 2 mediator's or arbitrator's fees, shall be divided equally among the disputing agencies.

3 **SECTION 55.** ORS 401.790 is amended to read:

4 401.790. (1) The [*Office of Emergency Management*] **Oregon Homeland Security Department**
 5 may institute proceedings against a public or private safety agency, a 9-1-1 jurisdiction or other
 6 person to compel compliance with or to restrain further violation of ORS 305.823 and 401.710 to
 7 401.816 or rules adopted pursuant to ORS 401.730.

8 (2) Proceedings authorized by subsection (1) of this section may be instituted without [*office*]
 9 **department** notice, hearing or order provided in ORS chapter 183; provided, however, that pro-
 10 ceedings brought against a telecommunications utility shall be brought before the Public Utility
 11 Commission as provided by ORS chapter 756.

12 **SECTION 56.** ORS 401.806 is amended to read:

13 401.806. (1) The Emergency Communications Account is established separate and distinct from
 14 the General Fund in the State Treasury. All moneys received by the Department of Revenue pursu-
 15 ant to ORS 401.792 to 401.804 and interest thereon shall be paid to the State Treasurer to be held
 16 in a suspense account established under ORS 293.445. After payment of refunds, the balance of the
 17 moneys received shall be paid into the State Treasury and credited to the Emergency Communi-
 18 cations Account. All earnings on investment of moneys in the Emergency Communications Account
 19 shall accrue to that account. All moneys in the account are appropriated continuously to the [*Office*
 20 *of Emergency Management*] **Oregon Homeland Security Department** and shall be used for the
 21 purposes described in ORS 401.808.

22 (2) The Enhanced 9-1-1 Subaccount is established as a subaccount of the Emergency Communi-
 23 cations Account. Thirty-five percent of the amount in the Emergency Communications Account on
 24 the date of distribution shall be credited to the Enhanced 9-1-1 Subaccount. All moneys in the ac-
 25 count are continuously appropriated to the [*Office of Emergency Management*] **Oregon Homeland**
 26 **Security Department** and shall be used for the purposes described in ORS 401.808 (3), (4) and (5).

27 (3) The Enhanced 9-1-1 Equipment Replacement Subaccount is established as a subaccount of the
 28 Emergency Communications Account. Two and one-half percent of the amount in the Emergency
 29 Communications Account shall be credited to the Enhanced 9-1-1 Equipment Replacement Subac-
 30 count. All moneys in the account are continuously appropriated to the [*Office of Emergency Man-*
 31 *agement*] **Oregon Homeland Security Department** and shall be used for the purposes described in
 32 ORS 401.808 (7).

33 **SECTION 57.** ORS 401.808 is amended to read:

34 401.808. The [*Office of Emergency Management*] **Oregon Homeland Security Department** shall
 35 distribute quarterly the entire amount of the moneys in the Emergency Communications Account
 36 beginning in June 1982. The [*office*] **department** shall pay the following amounts from the account:

37 (1) Administrative costs incurred during the preceding calendar quarter by the Department of
 38 Revenue in carrying out ORS 401.792 to 401.804. The amount paid to the Department **of Revenue**
 39 shall not exceed one-half of one percent of the amount in the account on the date of distribution,
 40 or actual expenses incurred by the Department **of Revenue**, whichever is less.

41 (2) Administrative costs incurred during the preceding calendar quarter by the [*Office of Emer-*
 42 *gency Management*] **Oregon Homeland Security Department** in carrying out its duties under ORS
 43 305.823 and 401.710 to 401.816. The amount paid to the [*office*] **Oregon Homeland Security De-**
 44 **partment** shall not exceed four percent of the amount in the account on the date of distribution,
 45 or actual expenses incurred by the [*office*] **Oregon Homeland Security Department**, whichever is

1 less. The [office] **Oregon Homeland Security Department** may provide funding under this sub-
 2 section for the Oregon Emergency Response System in an amount not to exceed 15 percent of the
 3 legislatively approved budget for the Oregon Emergency Response System. Funding provided to the
 4 Oregon Emergency Response System under this subsection shall be in the manner prescribed by the
 5 [office] **Oregon Homeland Security Department** and shall be subject to the availability of funds
 6 for such funding.

7 (3) Funds in the Enhanced 9-1-1 Subaccount shall be used to pay for costs incurred during the
 8 preceding calendar quarter for enhanced 9-1-1 telephone service established pursuant to ORS
 9 401.720. Enhanced 9-1-1 subaccount funds shall not be disbursed to a 9-1-1 jurisdiction which does
 10 not have an approved final plan as required in section 7, chapter 743, Oregon Laws 1991. Payments
 11 shall be made only after a reimbursement request has been submitted to the [Office of Emergency
 12 Management] **Oregon Homeland Security Department** in the manner prescribed by the [office]
 13 **Oregon Homeland Security Department**. Reimbursement requests for recurring and nonrecurring
 14 charges necessary to enable the 9-1-1 jurisdiction to comply with ORS 401.720 shall be submitted
 15 directly to the [Office of Emergency Management] **Oregon Homeland Security Department**. The
 16 costs payable under this section are only those incurred for:

17 (a) Modification of central office switching and trunking equipment;

18 (b) Network development, operation and maintenance;

19 (c) Database development, operation and maintenance;

20 (d) On-premises equipment procurement, maintenance and replacement;

21 (e) Conversion of pay station telephones required by ORS 401.770;

22 (f) Collection of the tax imposed by ORS 401.792 to 401.804; and

23 (g) Addressing if the reimbursement request is consistent with rules adopted by the [office]
 24 **Oregon Homeland Security Department**.

25 (4) 9-1-1 jurisdictions who have enhanced 9-1-1 telephone service operational prior to December
 26 31, 1991, shall receive funding based on cost information provided in their final plan required in
 27 section 7, chapter 743, Oregon Laws 1991. Plans submitted [which] **that** meet the minimum require-
 28 ments set forth in ORS 401.720 (2) and (4) shall be approved. Funding for costs incurred prior to the
 29 preceding calendar quarter shall be limited to charges associated with database development, net-
 30 work and on-premises equipment which satisfy the requirements of ORS 401.720 (2) and (4). Funding
 31 under this section shall be in the manner prescribed by the [office] **Oregon Homeland Security**
 32 **Department** and subject to the availability of funds therefor.

33 (5) 9-1-1 jurisdictions may use funds distributed to the jurisdiction from any account described
 34 in ORS 401.806 to repay loans from the Special Public Works Fund if the loans were used for pur-
 35 poses that are allowable under ORS 401.710 to 401.816.

36 (6) Any amounts remaining in the Enhanced 9-1-1 Subaccount shall be retained by the [Office
 37 of Emergency Management] **Oregon Homeland Security Department** and may be distributed in any
 38 subsequent quarter for those purposes set forth in subsections (3), (4) and (5) of this section.

39 (7) The Enhanced 9-1-1 Equipment Replacement Subaccount shall be used by the [Office of
 40 Emergency Management] **Oregon Homeland Security Department** to provide funds to replace and
 41 upgrade equipment to carry out the provisions of ORS 401.710 to 401.816. If at any time unexpended
 42 and unobligated balances in the subaccount exceed \$500,000, such excess amount shall be trans-
 43 ferred and credited to the Emergency Communications Account and shall be used for the purposes
 44 otherwise provided by law.

45 (8) The [office] **Oregon Homeland Security Department** shall review reimbursement requests

1 for modification of central office switching and trunking equipment, conversion of pay station tele-
2 phones, and network development, operation and maintenance costs necessary to comply with ORS
3 401.720 for the appropriateness of the costs claimed. The [office] **Oregon Homeland Security De-**
4 **partment** shall approve or disapprove the reimbursement requests.

5 (9) The [office] **Oregon Homeland Security Department** shall review reimbursement requests
6 for database development, operation and maintenance, and on-premises equipment procurement,
7 maintenance and replacement costs necessary to comply with ORS 401.720 for the appropriateness
8 of the costs claimed.

9 (10) After all amounts under subsections (1) and (2) of this section and ORS 401.806 (2) and (3)
10 have been paid, the balance of the Emergency Communications Account shall be distributed to cities
11 on a per capita basis and to counties on a per capita basis of each county's unincorporated area,
12 for distribution to 9-1-1 jurisdictions within the city or county, but each county shall receive a
13 minimum of one percent of the balance of the account after the amounts under subsections (1) and
14 (2) of this section and ORS 401.806 (2) and (3) have been paid. A 9-1-1 jurisdiction whose 9-1-1 service
15 area includes more than one city or county shall receive funds from each city or county involved.

16 (11) Notwithstanding subsection (10) of this section, a city or county may have its quarterly
17 distribution made payable and sent to the 9-1-1 jurisdiction responsible for providing the services
18 required in ORS 401.720.

19 (12) 9-1-1 jurisdictions shall submit an accounting report to the [office] **Oregon Homeland Se-**
20 **curity Department** annually. The report shall be provided in the manner prescribed by the [office]
21 **Oregon Homeland Security Department**, and shall include but not be limited to:

22 (a) Funds received and expended under subsection (10) or (11) of this section for the purposes
23 of fulfilling the requirements of ORS 401.720;

24 (b) Local funds received and expended for the purposes of fulfilling the requirements of ORS
25 401.720; and

26 (c) Local funds received and expended for the purposes of providing emergency communications
27 services.

28 **SECTION 58.** ORS 401.816 is amended to read:

29 401.816. (1) The Director of the [Office of Emergency Management] **Oregon Homeland Security**
30 **Department** shall establish by administrative rule the minimum standards for a primary public
31 safety answering point.

32 (2) If a primary public safety answering point does not meet the minimum standards established
33 under subsection (1) of this section within 45 days after receipt of written notice from the [Office
34 of Emergency Management] **Oregon Homeland Security Department**, the [office] **department** shall
35 designate an alternate primary public safety answering point that meets the minimum standards and
36 cause calls to be rerouted to the designated primary public safety answering point.

37 **SECTION 59.** 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*]
9 **Oregon Homeland Security Department** regarding:

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) Any employer receiving a hazardous substance survey shall complete the hazardous sub-
13 stance survey and return it to the State Fire Marshal not later than March 1 of each year or within
14 60 days after the date the State Fire Marshal mails the hazardous substance survey, whichever is
15 later.

16 (5) The State Fire Marshal shall update the hazardous substance survey once every 12 months.

17 (6) An employer shall update and return the hazardous substance survey on or before March 1
18 of each year or within 60 days after the date the State Fire Marshal mails the survey, whichever
19 is later, or an employer shall update the hazardous substance survey whenever any substantive in-
20 formation required to be provided changes, whichever situation occurs most often.

21 (7) The Director of the Department of Consumer and Business Services shall participate in the
22 development and updating of the hazardous substance survey and shall have access to the data in-
23 cluded in the survey.

24 (8) The State Fire Marshal may conduct an inspection to confirm the validity of a hazardous
25 substance survey required by this section. The inspection shall be conducted according to the pro-
26 visions of ORS 476.150.

27 **SECTION 60.** ORS 453.342 is amended to read:

28 453.342. Any fire department, emergency service personnel or law enforcement agency respond-
29 ing to an incident of injury to a human, wildlife, domestic animal or property resulting from a haz-
30 ardous substance emergency shall make a report of the incident, in writing, to [*the office of*] the
31 State Fire Marshal. The State Fire Marshal annually shall summarize all incidents reported to the
32 State Fire Marshal and the information received as a result of the survey conducted under ORS
33 453.317. The State Fire Marshal shall submit a copy of the summary to:

34 (1) The Governor;

35 (2) The Legislative Assembly;

36 (3) The Department of Environmental Quality;

37 (4) The Department of Consumer and Business Services;

38 (5) The Department of Transportation;

39 (6) The Department of Human Services;

40 (7) The Environmental Health Sciences Center at Oregon State University;

41 (8) The [*Office of Emergency Management of the Department of State Police*] **Oregon Homeland**
42 **Security Department**; and

43 (9) Every public library as defined in ORS 357.400.

44 **SECTION 61.** ORS 453.510 is amended to read:

45 453.510. [(1) *There is established the Interagency Hazard Communication Council consisting of 21*

- 1 *members.]*
- 2 [(2) *The council shall consist of the following:]*
- 3 [(a) *The State Fire Marshal or designee.]*
- 4 [(b) *The Director of Human Services or designee.]*
- 5 [(c) *The Director of Agriculture or designee.]*
- 6 [(d) *The State Forester or designee.]*
- 7 [(e) *The State Fish and Wildlife Director or designee.]*
- 8 [(f) *The Director of the Department of Consumer and Business Services or designee.]*
- 9 [(g) *The chairperson of the Public Utility Commission or designee.]*
- 10 [(h) *The Director of the Office of Emergency Management of the Department of State Police or*
- 11 *designee.]*
- 12 [(i) *The chairperson of the Department of Agricultural Chemistry of Oregon State University or*
- 13 *designee.]*
- 14 [(j) *The director of the Poison Control and Drug Information Program of the Oregon Health and*
- 15 *Science University or designee.]*
- 16 [(k) *The Director of the Department of Environmental Quality or designee.]*
- 17 [(L) *The Director of the State Department of Energy or designee.]*
- 18 [(m) *The Director of Transportation or designee.]*
- 19 [(n) *The Superintendent of State Police or designee.]*
- 20 [(o) *The Governor or designee from the office of the Governor.]*
- 21 [(p) *The Governor may appoint the Director or designee of the Center for Research on Occupational*
- 22 *and Environmental Toxicology created under ORS 353.460 and administered by the Oregon Health and*
- 23 *Science University.]*
- 24 [(q) *Two representatives of local government appointed by the Governor, at least one of whom is*
- 25 *either a firefighter or another emergency response person.]*
- 26 [(r) *Three members appointed by the Governor for four-year terms shall represent the public at*
- 27 *large, at least one of whom represents a public interest group.]*
- 28 [(3) (1) The [council] **Oregon Homeland Security Department** shall:
- 29 (a) Facilitate interagency cooperation in updating the hazardous substance survey under ORS
- 30 453.317;
- 31 (b) Facilitate interagency access to data collected that relates to hazardous material or haz-
- 32 arduous substances;
- 33 (c) Coordinate state agencies' regulatory responsibilities over hazardous material and hazardous
- 34 substances;
- 35 (d) Provide, in a timely manner, advice or recommendations to a state agency required to con-
- 36 sult with the [council] **department** regarding programs involving hazardous material or hazardous
- 37 substances; and
- 38 (e) Undertake all duties of a state emergency response commission required by the Emergency
- 39 Planning and Community Right-to-Know Act of 1986 [(P.L. 99-499)] (**42 U.S.C. 11001 et seq.**) in-
- 40 cluding but not limited to:
- 41 (A) Designating emergency planning districts.
- 42 (B) Appointing members of local emergency planning committees.
- 43 (C) Providing oversight for the implementation of reporting requirements in connection with the
- 44 [council's] **department's** duties under paragraph (a) of this subsection.
- 45 (D) Commenting on local emergency plans.

1 [(4) *Public members shall be entitled to compensation and expenses as provided in ORS 292.495*
 2 *which shall be paid by the State Fire Marshal.*]

3 [(5) *The council shall meet on a regular basis at a time and place determined by the council.*]

4 [(6) *The chairperson of the Interagency Hazard Communication Council shall be the Governor or*
 5 *the Governor’s designee.*]

6 [(7)] (2) As used in this section:

7 (a) “Hazardous material” means one of the following:

8 (A) A material designated by the **Environmental Quality** Commission under ORS 466.630.

9 (B) Hazardous waste as defined in ORS 466.005.

10 (C) Radioactive waste as defined in ORS 469.300, radioactive material identified by the Energy
 11 Facility Siting Council under ORS 469.605 and radioactive substances as defined in ORS 453.005.

12 (D) Communicable disease agents as regulated by the Department of Human Services under ORS
 13 433.010 to 433.045 and 433.106 to 433.990 and ORS chapter 431.

14 (E) Hazardous substances designated by the United States Environmental Protection Agency
 15 under section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as amended.

16 (b) “Hazardous substance” means:

17 (A) Any substance designated as hazardous by the Director of the Department of Consumer and
 18 Business Services or by the State Fire Marshal;

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

23 (C) Radioactive waste and material as defined in ORS 469.300 and radioactive substance as de-
 24 fined in ORS 453.005.

25 **SECTION 62.** ORS 453.517 is amended to read:

26 453.517. The Department of Environmental Quality [*and the State Fire Marshal*] shall provide the
 27 staff support to the [*Interagency Hazard Communication Council*] **Oregon Homeland Security De-**
 28 **partment** that is necessary to carry out the purposes of ORS 453.510 to 453.527.

29 **SECTION 63.** ORS 465.505 is amended to read:

30 465.505. (1) In addition to any other applicable federal or state law and regulation, the following
 31 waste minimization requirements shall apply to dry cleaning facilities:

32 (a) All wastes meeting the state and federal criteria for hazardous waste, excluding wastewater,
 33 generated at any dry cleaning facility and containing dry cleaning solvents, including residues and
 34 filters, shall be managed and disposed of, regardless of quantity generated, as hazardous wastes in
 35 accordance with federal and state laws otherwise applicable to management of hazardous wastes,
 36 except that, as to the cleanup of releases of dry cleaning solvents, ORS 465.503 shall apply rather
 37 than ORS 466.205;

38 (b) Wastewater contaminated with dry cleaning solvents from the water separation process of
 39 dry cleaning machines may not be discharged into any sanitary sewer or septic tank or into the
 40 waters of this state;

41 (c) Dry cleaning operators shall manage solvent contaminated wastewater generated in the wa-
 42 ter separation process in accordance with rules adopted by the Environmental Quality Commission;

43 (d) A dry cleaning facility may not include operation of transfer-type dry cleaning equipment
 44 using perchloroethylene;

45 (e) All newly installed dry cleaning systems using perchloroethylene shall be of the dry-to-dry

1 type and be equipped with integral refrigerated condensers with an outlet temperature sensor for
 2 the control of perchloroethylene emissions;

3 (f) All existing dry cleaning systems using perchloroethylene shall install refrigerated
 4 condensers, or an equivalent;

5 (g) Every dry cleaning facility shall install secondary containment systems capable of containing
 6 dry cleaning solvent under and around each machine or item of equipment in which any dry cleaning
 7 solvent is used, treated or stored; and

8 (h) All perchloroethylene dry cleaning solvent shall be delivered to dry cleaning facilities by
 9 means of closed, direct-coupled delivery systems.

10 (2) The Department of Environmental Quality may authorize the use of alternative measures at
 11 a dry cleaning facility in lieu of one or more of the measures described under subsection (1) of this
 12 section upon proof satisfactory to the department that the alternative measures can provide equiv-
 13 alent protection for public health and the environment, can achieve equivalent waste minimization
 14 and are consistent with other applicable laws and regulations.

15 (3) Every dry cleaning and dry store operator shall provide annually to the department on forms
 16 to be supplied by the department, information regarding compliance with the waste minimization
 17 requirements set forth in subsection (1) of this section and any other information as the department
 18 considers necessary for carrying out the purposes of ORS 465.200 and 465.500 to 465.545.

19 (4) Notwithstanding any law to the contrary, a dry cleaning operator for a facility having a re-
 20 lease of dry cleaning solvents shall immediately report any release exceeding one pound to the no-
 21 tification system managed by the [*Office of Emergency Management*] **Oregon Homeland Security**
 22 **Department** pursuant to ORS 401.275.

23 (5) The Environmental Quality Commission shall adopt rules necessary to implement ORS
 24 465.200 and 465.500 to 465.545, including but not limited to rules implementing the recommendations
 25 of the advisory group established under ORS 465.507 or requiring the implementation of new waste
 26 minimization technologies.

27 **SECTION 64.** ORS 466.620 is amended to read:

28 466.620. In accordance with the applicable provisions of ORS chapter 183, the Environmental
 29 Quality Commission shall adopt an oil and hazardous material emergency response master plan
 30 consistent with the plan adopted by the [*Interagency Hazard Communications Council*] **Oregon**
 31 **Homeland Security Department** pursuant to the provisions of ORS 453.317 (1) to (6), 453.510,
 32 453.825 and 453.835, and after consultation with the [*Interagency Hazard Communications Council*]
 33 **department**, the Oregon State Police, the Oregon Fire Chiefs Association and any other appropriate
 34 agency or organization.

35 **SECTION 65.** ORS 466.635 is amended to read:

36 466.635. Any person owning or having control over any oil or hazardous material who has
 37 knowledge of a spill or release shall immediately notify the [*Office of Emergency Management of the*
 38 *Department of State Police*] **Oregon Homeland Security Department** as soon as that person knows
 39 the spill or release is a reportable quantity.

40 **SECTION 66.** ORS 469.533 is amended to read:

41 469.533. Notwithstanding ORS chapter 401, the State Department of Energy in cooperation with
 42 the Department of Human Services and the [*Office of Emergency Management*] **Oregon Homeland**
 43 **Security Department** shall establish rules for the protection of health and procedures for the
 44 evacuation of people and communities who would be affected by radiation in the event of an acci-
 45 dent or a catastrophe in the operation of a nuclear power plant or nuclear installation.

1 **SECTION 67.** ORS 195.260 is amended to read:

2 195.260. (1) In order to reduce the risk of serious bodily injury or death resulting from rapidly
3 moving landslides, a local government:

4 (a) Shall exercise all available authority to protect the public during emergencies, consistent
5 with ORS 401.015.

6 (b) May require a geotechnical report and, if a report is required, shall provide for a coordinated
7 review of the geotechnical report by the State Department of Geology and Mineral Industries or the
8 State Forestry Department, as appropriate, before issuing a building permit for a site in a further
9 review area.

10 (c) [*Except those structures exempt from building codes under ORS 455.310 and 455.315,*] Shall
11 amend its land use regulations, or adopt new land use regulations, to regulate the siting of dwellings
12 and other structures designed for human occupancy, including those being restored under ORS
13 215.130 (6), in further review areas where there is evidence of substantial risk for rapidly moving
14 landslides. All final decisions under this paragraph and paragraph (b) of this subsection are the re-
15 sponsibility of the local government with jurisdiction over the site. A local government may not
16 delegate such final decisions to any state agency. **This provisions of this paragraph do not apply**
17 **to structures exempt from building codes under ORS 455.310 and 455.315.**

18 (d) May deny a request to issue a building permit if a geotechnical report discloses that the
19 entire parcel is subject to a rapidly moving landslide or that the subject lot or parcel does not
20 contain sufficient buildable area that is not subject to a rapidly moving landslide.

21 (e) Shall maintain a record, available to the public, of properties for which a geotechnical report
22 has been prepared within the jurisdiction of the local government.

23 (2) A landowner allowed a building permit under subsection (1)(c) of this section shall sign a
24 statement that shall:

25 (a) Be recorded with the county clerk of the county in which the property is located, in which
26 the landowner acknowledges that the landowner may not in the future bring any action against an
27 adjacent landowner about the effects of rapidly moving landslides on or adjacent to the landowner's
28 property; and

29 (b) Record in the deed records for the county where the lot or parcel is located a nonrevocable
30 deed restriction that the landowner signs and acknowledges, that contains a legal description com-
31 plying with ORS 93.600 and that prohibits any present or future owner of the property from bringing
32 any action against an adjacent landowner about the effects of rapidly moving landslides on or ad-
33 jacent to the property.

34 (3) Restrictions on forest practices adopted under ORS 527.710 (10) do not apply to risk situ-
35 ations arising solely from the construction of a building designed for human occupancy in a further
36 review area on or after October 23, 1999.

37 (4) The following state agencies shall implement the following specific responsibilities to reduce
38 the risk of serious bodily injury or death resulting from rapidly moving landslides:

39 (a) The State Department of Geology and Mineral Industries shall:

40 (A) Identify and map further review areas selected in cooperation with local governments and
41 in coordination with the State Forestry Department, and provide technical assistance to local gov-
42 ernments to facilitate the use and application of this information pursuant to subsection (1)(b) of this
43 section; and

44 (B) Provide public education regarding landslide hazards.

45 (b) The State Forestry Department shall regulate forest operations to reduce the risk of serious

1 bodily injury or death from rapidly moving landslides directly related to forest operations, and assist
2 local governments in the siting review of permanent dwellings on and adjacent to forestlands in
3 further review areas pursuant to subsection (1)(b) of this section.

4 (c) The Land Conservation and Development Commission may take steps under its existing au-
5 thority to assist local governments to appropriately apply the requirements of subsection (1)(c) of
6 this section.

7 (d) The Department of Transportation shall provide warnings to motorists during periods deter-
8 mined to be of highest risk of rapidly moving landslides along areas on state highways with a history
9 of being most vulnerable to rapidly moving landslides.

10 (e) The [*Office of Emergency Management of the Department of State Police*] **Oregon Homeland**
11 **Security Department** shall coordinate state resources for rapid and effective response to
12 landslide-related emergencies.

13 (5) Notwithstanding any other provision of law, any state or local agency adopting rules related
14 to the risk of serious bodily injury or death from rapidly moving landslides shall do so only in con-
15 formance with the policies and provisions of ORS 195.250 to 195.260.

16 (6) No state or local agency may adopt or enact any rule or ordinance for the purpose of re-
17 ducing risk of serious bodily injury or death from rapidly moving landslides that limits the use of
18 land that is in addition to land identified as a further review area by the State Department of
19 Geology and Mineral Industries or the State Forestry Department pursuant to subsection (4) of this
20 section.

21 (7) Except as provided in ORS 527.710 or in Oregon's ocean and coastal land use planning goals,
22 no state agency may adopt criteria regulating activities for the purpose of reducing risk of serious
23 bodily injury or death from rapidly moving landslides on lands subject to the provisions of ORS
24 195.250 to 195.260 that are more restrictive than the criteria adopted by a local government pursu-
25 ant to subsection (1)(c) of this section.

26 **SECTION 68.** ORS 824.088 is amended to read:

27 824.088. (1) Each railroad that gives notice to the United States Department of Transportation
28 of an incident that occurs during the course of transporting hazardous materials as defined by fed-
29 eral regulations shall also give notice of the incident to the Director of the [*Office of Emergency*
30 *Management of the Department of State Police*] **Oregon Homeland Security Department**.

31 (2) As soon as reasonably practicable, each railroad shall notify the director [*of the Office of*
32 *Emergency Management of the Department of State Police*] by telephone or similar means of commu-
33 nication of any derailment or fire involving or affecting hazardous material.

34 (3) To facilitate expedited and accurate notice to the director under this section, each train
35 transporting hazardous materials in this state shall be equipped with at least two radio
36 transmitter-receivers in good working order. In addition, 18 months after October 4, 1977, trains
37 over 2,000 feet in length that are transporting hazardous materials shall be equipped with a radio
38 handset in good working order capable of communicating with the radio transmitter-receivers. If the
39 equipment required under this section does not function while the train is en route, the train may
40 proceed to the next point of crew change where the equipment shall be replaced or repaired.

41 **SECTION 69.** ORS 837.035 is amended to read:

42 837.035. All moneys received by the Oregon Department of Aviation for the registration of pilot
43 licenses as prescribed in ORS 837.020 shall be paid by the **Oregon Department of Aviation** to the
44 State Treasurer, who shall deposit it in the General Fund to a special account to be known as the
45 Aviation Search and Rescue Account. The money in the account established under this section shall

1 be used by the [*Office of Emergency Management of the Department of State Police*] **Oregon Home-**
 2 **land Security Department** only for the following purposes or as otherwise provided by law:

3 (1) Such amount as may be necessary shall be used for the payment of all expenses incurred by
 4 the [*Office of Emergency Management*] **Oregon Homeland Security Department** in conducting ac-
 5 tivities authorized under ORS 401.555 to search for lost planes and lost persons, the rescue of lost
 6 persons, pilot survival education and training and all other expenses directly attributable to the
 7 search and rescue program and for the payment of expenses of the Oregon Department of Aviation
 8 relating to the registration of pilot licenses. The Oregon Department of Administrative Services,
 9 after approval of claims for the expenses referred to in this subsection, shall draw warrants on the
 10 State Treasurer for the payment thereof, payable out of the Aviation Search and Rescue Account.

11 (2) The [*Office of Emergency Management*] **Oregon Homeland Security Department** may use
 12 money from the Aviation Search and Rescue Account to provide insurance to compensate any
 13 member of a volunteer air search and rescue organization for injuries or loss of life sustained in the
 14 scope of performing air search and rescue operations while under the direction of the [*Office of*
 15 *Emergency Management*] **Oregon Homeland Security Department**. The insurance may be obtained
 16 from a public or private insurer. The scope, coverage and benefits provided under the insurance
 17 [*shall*] **may** not exceed those provided for persons under ORS chapter 656. If the insurance is pro-
 18 vided, the coverage provided by the insurance:

19 (a) Shall include all volunteer members accepted by the [*Office of Emergency Management*]
 20 **Oregon Homeland Security Department**.

21 (b) Regardless of negligence, is the exclusive remedy of a member of the [*Office of Emergency*
 22 *Management*] **Oregon Homeland Security Department** air search and rescue organization against
 23 the State of Oregon, the [*Office of Emergency Management*] **Oregon Homeland Security Depart-**
 24 **ment** or any other person acting under the authority or direction of the [*Office of Emergency Man-*
 25 *agement*] **Oregon Homeland Security Department** for those injuries or losses resulting from the
 26 air search and rescue activities.

27 **SECTION 70.** ORS 476.030 is amended to read:

28 476.030. (1) The State Fire Marshal shall enforce all statutes, and make rules relating to:

29 (a) The prevention of fires.

30 (b) The storage and use of combustibles and explosives.

31 (c) The maintenance and regulation of structural fire safety features in occupied structures and
 32 overseeing the safety of and directing the means and adequacy of exit in case of fire from factories,
 33 asylums, hospitals, churches, schools, halls, theaters, amphitheaters, all buildings, except private
 34 residences, which are occupied for sleeping purposes, and all other places where large numbers of
 35 persons work, live or congregate from time to time for any purpose except that structural changes
 36 shall not be required in buildings built, occupied and maintained in conformity with state building
 37 code regulations applicable at the time of construction.

38 (d) Standards for equipment used for fire protection purposes within this state including stand-
 39 ard thread for fire hose couplings and hydrant fittings.

40 (2) The State Fire Marshal and deputies shall have such powers and perform such other duties
 41 as are prescribed by law.

42 (3) If, in the opinion of the State Fire Marshal, a governmental subdivision of the state has en-
 43 acted adequate regulations generally conforming to state and national standards concerning fire
 44 prevention, fire safety measures and building construction requirements for safety, and if the gov-
 45 ernmental subdivision provides reasonable enforcement of its regulations, the State Fire Marshal

1 may exempt the area subject to such regulation either partially or fully from the statutes, rules and
 2 regulations administered by the State Fire Marshal. Prior to adoption of any such exemption, the
 3 State Fire Marshal may request from the Department of Public Safety Standards and Training con-
 4 sideration of and recommendations regarding the exemption. The exemption may extend for a two-
 5 year period, and may be renewed from time to time, but may be canceled by the State Fire Marshal
 6 following 30 days' written notice if the State Fire Marshal finds that the governmental subdivision's
 7 regulations or enforcement thereof are not reasonably sufficient. The governmental subdivision shall
 8 furnish a copy of such regulations to the State Fire Marshal and shall file with the State Fire
 9 Marshal any amendment thereto within 30 days before the effective date of such amendment. The
 10 State Fire Marshal shall designate a person or division within such governmental subdivision as an
 11 approved authority for exercising functions relating to fire prevention, fire safety measures and
 12 building construction. Upon request of a local official having enforcement responsibility and a
 13 showing of unusual fire hazard or other special circumstances, the State Fire Marshal shall make
 14 investigation and appropriate recommendations.

15 (4) The State Fire Marshal may investigate or cause an investigation to be made to determine
 16 the probable cause, origin and circumstances of any fire and shall classify such findings as the State
 17 Fire Marshal may find appropriate to promote fire protection and prevention.

18 (5) The State Fire Marshal shall provide training in fire safety inspection to the Department of
 19 Human Services, area agencies, community mental health and developmental disabilities programs
 20 and to designees of the Long Term Care Ombudsman. If an adult foster home has been inspected
 21 by the Department of Human Services, an area agency or community mental health and develop-
 22 mental disabilities program and the agency conducting the inspection reasonably believes that the
 23 adult foster home is not in compliance with applicable fire safety rules, the agency conducting the
 24 inspection may request the State Fire Marshal to inspect or cause an inspection to be made. If a
 25 designee of the Long Term Care Ombudsman, in the course of visiting an adult foster home, believes
 26 that the adult foster home is not in compliance with applicable fire safety rules, the designee shall
 27 report the problem to the appropriate agency to request a fire safety inspection by the *[office of*
 28 *the]* State Fire Marshal or by a designated representative of the *[office of the]* State Fire Marshal.

29 (6) Upon the request of the Department of Human Services, an area agency or community men-
 30 tal health and developmental disabilities program, the State Fire Marshal shall inspect or cause an
 31 inspection to be made to determine if the adult foster home is in compliance with rules jointly
 32 adopted by the Department of Human Services and the State Fire Marshal establishing fire safety
 33 standards for adult foster homes.

34 (7) As used in subsections (5) and (6) of this section:

35 (a) "Adult foster home" has the meaning given that term in ORS 443.705.

36 (b) "Area agency" has the meaning given that term in ORS 410.040.

37 (c) "Community mental health and developmental disabilities program" means a program estab-
 38 lished under ORS 430.620.

39 **SECTION 71.** ORS 476.130 is amended to read:

40 476.130. (1) The State Fire Marshal may from time to time cause to be prepared statistical re-
 41 ports on the history and condition of state fire defenses, and an analysis of contributing factors of
 42 fire causes for the period of the report. Such reports may be printed at the expense of the *[office*
 43 *of the]* State Fire Marshal and sold at a price not to exceed cost of printing and distribution. Re-
 44 ceipts from the sale of such material shall be deposited with the State Treasurer and shall be placed
 45 in the State Fire Marshal Fund.

1 (2) The State Fire Marshal may fix a sale price for each copy of any publication of the [office
2 of the] State Fire Marshal supplied to private persons interested therein, when such publication has
3 been approved as provided by law.

4 **SECTION 72.** ORS 476.270 is amended to read:

5 476.270. (1) If an insurance company has reason to believe that a fire loss to its assured's real
6 or personal property was caused by incendiary means, the company shall immediately make a report
7 to the [office of the] State Fire Marshal. The report shall indicate the name of the assured, the date
8 of the fire, location, occupancy, and facts and circumstances coming to the company's knowledge,
9 tending to establish the cause or origin of the fire.

10 (2) Any federal, state or local public official or authorized agent thereof having legal authority
11 to investigate a fire loss of real or personal property may request any insurance company to provide
12 relevant information in its possession pertaining to that loss. Upon request, the company shall re-
13 lease such information to the official who requests it. For purposes of this subsection, "relevant in-
14 formation" means information having any tendency to make the existence of any fact that is of
15 consequence to the investigation more probable or less probable.

16 (3) In the absence of fraud or malice, no insurance company or its authorized representative
17 shall be liable for damages in a civil action or subject to criminal prosecution for the release of
18 information required by subsections (1) and (2) of this section.

19 **SECTION 73.** ORS 476.515 is amended to read:

20 476.515. If the Governor is unavailable to make timely exercise of the authority under ORS
21 476.510 to 476.610, the [Superintendent of State Police] **Director of the Oregon Homeland Security**
22 **Department** may exercise such authority, and if that individual is unavailable the State Fire Mar-
23 shal may exercise such authority. Any orders, rules or regulations issued by the [Superintendent of
24 State Police] **director** or the State Fire Marshal pursuant to this section have the same force and
25 effect as if issued by the Governor.

26 **SECTION 74.** ORS 476.550 is amended to read:

27 476.550. When any equipment is used pursuant to ORS 476.520 or 476.530 the state shall be liable
28 for any loss thereof or damage thereto and shall pay any expense incurred in the operation or
29 maintenance thereof. No claim for any such loss, damage or expense shall be allowed unless, within
30 60 days after it has been sustained or incurred, or within such extension of such time as may have
31 been obtained from the [Department of State Police] **Oregon Homeland Security Department**, an
32 itemized notice of such claim, under oath, is served by mail or personally upon the department [of
33 State Police] and such loss, damage or expense shall be payable from the Emergency Fund of the
34 state.

35 **SECTION 75.** ORS 476.680 is amended to read:

36 476.680. (1) There is created the Governor's Fire Service Policy Council. The council shall in-
37 clude the following nonvoting ex officio members:

38 (a) [The Superintendent of State Police, or a designee thereof experienced in the oversight of De-
39 partment of State Police activities relating to the office of the State Fire Marshal] **The Director of**
40 **the Oregon Homeland Security Department or a designee who is experienced in the oversight**
41 **of department activities relating to the State Fire Marshal;** and

42 (b) The Director of the Department of Public Safety Standards and Training, or a designee
43 thereof.

44 (2) The State Fire Marshal shall serve as executive director of the council, but is not a member.
45 The council shall meet at least quarterly. The council shall select a chairperson and vice chair-

1 person at the first council meeting of each odd-numbered year. The council may elect additional of-
 2 ficers as the council determines to be reasonable and necessary.

3 (3) In addition to the ex officio members identified in subsection (1) of this section, the Governor
 4 may designate a representative of the Governor to serve as a nonvoting member. The Governor may
 5 also appoint not more than nine members to serve on the council for three-year terms. Initial terms
 6 of the appointed members may be adjusted to promote council stability. An appointed member may
 7 not serve more than two consecutive terms. A member appointed by the Governor must be a repre-
 8 sentative of one of the following:

9 (a) The Oregon Fire Chiefs' Association or a successor or other organization representing fire
 10 chiefs.

11 (b) The Oregon Fire District Directors' Association or a successor or other organization repre-
 12 senting fire district directors.

13 (c) The Oregon Fire Marshals Association or a successor or other organization representing fire
 14 marshals.

15 (d) Property and casualty insurance providers.

16 (e) Employees of the [office of the] State Fire Marshal.

17 (f) The Oregon State Fire Fighters Council or a successor or other organization representing
 18 professional firefighters.

19 (g) The Oregon Volunteer Fire Fighters' Association or a successor or other organization rep-
 20 resenting volunteer firefighters.

21 (h) The League of Oregon Cities or a successor or other organization representing munici-
 22 palities.

23 (i) The general public.

24 (4) Notwithstanding the term of office specified in subsection (3) of this section, the initial term
 25 of a member appointed by the Governor may be adjusted to limit the number of member terms ex-
 26 piring in the same year.

27 (5) To the extent funding is available from moneys appropriated to the [office of the] State Fire
 28 Marshal, a member of the council is entitled to compensation and expenses as provided in ORS
 29 292.495.

30 (6) The council shall advise the Governor and the [Superintendent of State Police] **Director of**
 31 **the Oregon Homeland Security Department** on fire policy issues and serve in an advisory ca-
 32 pacity to the State Fire Marshal on strategies for the implementation of fire and life safety issues.
 33 The council may initiate advice to the State Fire Marshal, the [Superintendent of State Police] **Di-**
 34 **rector of the Oregon Homeland Security Department** and the Governor on any matter related
 35 to the mission of the council. The council may not participate in the discussion of traditional labor
 36 relations issues.

37 (7) The [office of the] State Fire Marshal shall provide staff services to the council. All agencies,
 38 departments and officers of this state are directed to assist the council in the performance of its
 39 functions and to furnish information and advice as the council considers necessary.

40 **SECTION 76.** ORS 476.685 is amended to read:

41 476.685. The Governor's Fire Service Policy Council shall provide a biennial report to the Gov-
 42 ernor and the [Superintendent of State Police] **Director of the Oregon Homeland Security De-**
 43 **partment** on the overall performance of the [office of the] State Fire Marshal. The report shall
 44 identify significant successes and improvement opportunities.

45 **SECTION 77.** ORS 478.940 is amended to read:

1 478.940. Copies of the fire prevention code shall be filed with the State Fire *[Marshal's office]*
 2 **Marshal** and a copy shall be posted at each fire station within the district.

3 **SECTION 78.** ORS 479.180 is amended to read:

4 479.180. (1) If the owner, lessee, agent or occupant is aggrieved by the order of an officer under
 5 the provisions of ORS 476.030, 479.020 to 479.130, 479.170, 479.210 to 479.220, 480.122 to 480.160,
 6 480.330, 480.340, 480.420 to 480.434 or 480.450 and desires a hearing, the person may complain or
 7 appeal in writing to the State Fire Marshal within 10 days from the service of the order. The com-
 8 plaint or appeal shall set forth the specific grounds of the complaint or appeal and no other ground
 9 shall be considered thereafter. The complaint or appeal shall be accompanied by a fee of \$40 payable
 10 to the State Fire Marshal, and the State Fire Marshal may refer the complaint or appeal to the re-
 11 gional appeal advisory board established for that region by notifying the chairperson of that board
 12 and sending a copy of the notice to the complainant or appellant. The board shall fix a time for
 13 hearing and notify the complainant or appellant of the time and place thereof, which shall be within
 14 10 days after such referral by the State Fire Marshal. If the State Fire Marshal does not refer the
 15 matter to a regional appeal advisory board, the State Fire Marshal shall fix a time and place, not
 16 less than five and not more than 10 days thereafter, when and where the complaint or appeal will
 17 be heard by the State Fire Marshal. Within 10 days after receiving a recommendation from the re-
 18 gional appeal advisory board, or if no referral was made to such board, within 10 days after the
 19 hearing before the State Fire Marshal, the State Fire Marshal may affirm, modify, revoke or vacate
 20 the order complained of or appealed from. Unless the order is modified, revoked or vacated by the
 21 State Fire Marshal, it shall remain in force and be complied with by the owner, lessee, agent or
 22 occupant, and within the time fixed in the order or fixed by the State Fire Marshal. If the State Fire
 23 Marshal vacates or revokes the order complained of or appealed from, or modified it in any partic-
 24 ular other than extending time for compliance, the fee paid with the complaint or appeal shall be
 25 refunded. Otherwise, it shall be credited to appropriate state funds, and the State Fire Marshal shall
 26 so notify the State Treasurer.

27 (2) If the complainant or appellant under subsection (1) of this section is aggrieved by the final
 28 order of the State Fire Marshal, and if such order necessitates the expenditure of money or involves
 29 statutory interpretation, the complainant or appellant may, within 10 days thereafter, appeal to the
 30 circuit court of the county in which the property is situated, notifying the State Fire Marshal of the
 31 appeal within 10 days thereafter, which notice shall be in writing and delivered personally or by
 32 registered letter to the marshal, or left at the principal office of the State Fire Marshal *[at the state*
 33 *capital]*. The party so appealing shall, within two days after filing the appeal, file with the circuit
 34 court in which appeal is made a bond in an amount to be fixed by the court or judge, but in no case
 35 less than \$100, with two sufficient sureties possessing the qualification of bail on arrest, the bond
 36 to be approved by the court and conditioned to pay all the costs on the appeal in case the appellant
 37 fails to sustain it or it is dismissed for any cause. In the case of an appeal involving an order under
 38 ORS 479.170, the circuit court shall hear and determine the appeal within 10 days after the date of
 39 filing the same.

40 (3) The State Fire Marshal shall make or have made a certified summary of the proceedings at
 41 the hearing before the regional appeal advisory board or before the State Fire Marshal, and together
 42 with all the evidentiary matter filed *[in the office of]* **with** the State Fire Marshal or presented to
 43 the regional appeal advisory board, transmit them to the circuit court at least three days prior to
 44 the date fixed by the court for hearing when it shall be tried de novo.

45 **SECTION 79.** ORS 480.122 is amended to read:

1 480.122. (1) Notwithstanding the provisions of ORS 480.110 to 480.124 and 480.130 to 480.150, an
2 owner or lessee of property located outside of an incorporated city may purchase, maintain, use and
3 explode fireworks on the owned or leased property for the purpose of scaring away or repelling birds
4 or animals which are or may be injurious or destructive to forest or agricultural products or crops.

5 (2) Any person described in subsection (1) of this section desiring to use and explode fireworks
6 to scare or repel birds or animals shall first secure a permit from the State Fire Marshal for that
7 purpose. The State Fire Marshal, upon receipt of application for such permit, shall determine if the
8 proposed purchase and use conforms to law and any rules or regulations promulgated by the [office
9 of the] **State** Fire Marshal. If the **State** Fire Marshal finds that the applicant is qualified to use the
10 fireworks and the proposed use is in accordance with the law and rules and regulations, the **State**
11 Fire Marshal shall issue a permit; otherwise the **State** Fire Marshal shall refuse to issue it.

12 (3) Such permit may be revoked by the State Fire Marshal at any time **the State** Fire Marshal
13 verifies there is a violation of the provisions of the permit or the rules and regulations under which
14 it is issued.

15 (4) The State Fire Marshal is authorized to promulgate rules and regulations relating to the use
16 of fireworks to scare or repel birds or animals which are injurious to or destructive to forest or
17 agricultural crops or products.

18 **SECTION 80.** ORS 480.230 is amended to read:

19 480.230. A person desiring a certificate of possession shall apply on application forms provided
20 by the [office of the] State Fire Marshal. The forms shall be completed in full and shall include:

21 (1) The applicant's legal name, current address and current telephone number;

22 (2) The applicant's date of birth;

23 (3) A statement by the applicant that the applicant is eligible for a certificate of possession
24 under ORS 480.225;

25 (4) The number of the certificate of registration issued under ORS 480.244 for the explosives
26 magazine where the applicant intends to store the explosives;

27 (5) Any other information that the issuing authority may require to readily identify the appli-
28 cant;

29 (6) A certification, signed and dated by the applicant, that the information contained in the ap-
30 plication is true; and

31 (7) A nonrefundable application fee of \$50 for a three-year certificate.

32 **SECTION 81.** ORS 480.450 is amended to read:

33 480.450. (1) The installer shall notify the State Fire Marshal, before the last day of each month,
34 of all new installations made during the preceding month of containers or receptacles for liquid pe-
35 troleum gas, including installations for private homes and apartments. The installer shall certify on a
36 form provided by the State Fire Marshal that all of the new installations are duly and properly
37 reported. The State Fire Marshal may require that the notification include the location and de-
38 scription of the installation and the name of the user. All fees due and payable must accompany the
39 notification. The replacement of empty containers or receptacles with other containers constructed
40 in accordance with Interstate Commerce Commission specifications is not a new installation or
41 change in the original installation that requires notification to the State Fire Marshal or necessi-
42 tates further inspection of the installation. The State Fire Marshal shall collect from the installer
43 an installation fee of \$35 for each tank installed or for all tanks at the installation if the total
44 combined capacity is 200 gallons or less. The State Fire Marshal or deputies of the **State** Fire
45 Marshal or assistants shall inspect a reasonable number of the installations and maintain a record

1 of the inspections [*in the office of the*] **with the** State Fire Marshal.

2 (2) In addition to any installation or inspection fee, the State Fire Marshal may charge a plan
3 review fee, not to exceed \$100, for any liquid petroleum gas container and receptacle plan review
4 required under a uniform fire code prescribed by the State Fire Marshal by rule.

5 (3) After the initial installation, liquid petroleum gas containers may be inspected once every
6 10 years except when changes have been made in the original installation. An installer making
7 changes must notify the State Fire Marshal of the changes in the same manner provided in this
8 section for new installations. The State Fire Marshal shall collect from the owner a fee of \$35 for
9 the inspection of each container. The manner of inspection, requirement of corrections, satisfaction
10 of requirements and collection of fees due and payable must conform with the provisions of ORS
11 480.410 to 480.460 for new installations. Upon request of the State Fire Marshal, LP gas installation
12 licensees shall furnish a list of the locations of 10-year old installations that they service.

13 (4) If, upon inspection of any tank, the new installation does not comply with the requirements
14 of the State Fire Marshal, the State Fire Marshal shall instruct the installer as to what corrections
15 are necessary for compliance with the State Fire Marshal's requirements. The installer of the new
16 installation shall, within the time set by the State Fire Marshal, not to exceed 60 days after notifi-
17 cation, notify the State Fire Marshal that the new installation complies with the requirements of the
18 **State** Fire Marshal. If the installer fails to notify the State Fire Marshal, or the State Fire Marshal
19 has reason to believe that the corrections have not been made, the State Fire Marshal shall rein-
20 spect the new installation and shall collect from the installer an additional fee of \$24. The user, not
21 the installer, shall pay the additional fee resulting from actions of the user that require correction
22 to achieve compliance with the requirements of the State Fire Marshal.

23 (5) A person who receives notice from the State Fire Marshal must correct any improper in-
24 stallation within the time set by the State Fire Marshal, not to exceed 60 days after receipt of the
25 notice.

26 (6) If the fees provided for in this section are due and payable and are not paid within 30 days
27 after service of written notice by the State Fire Marshal therefor, or if the installer fails to notify
28 the State Fire Marshal by the last day of the month succeeding the month a new installation is made
29 or a change is made requiring an inspection, the fees are delinquent and a penalty equal to the
30 greater of 10 percent of the fee amount or \$15, is imposed for the delinquency. The State Fire
31 Marshal shall collect all fees and penalties in the name of the State of Oregon in the same manner
32 that other debts are collected.

33 (7) The provisions of this section do not apply to liquid petroleum gas installations if made en-
34 tirely within the jurisdiction of a governmental subdivision granted the exemption provided by ORS
35 476.030 (3) and written evidence of the licensing of the installation by the approved authority is
36 submitted to the State Fire Marshal. The provisions of this section do not apply to LP gas installa-
37 tions made in manufactured dwellings or recreational vehicles that are constructed or altered in
38 accordance with applicable rules of the Department of Consumer and Business Services.

39 **SECTION 82.** ORS 657.665 is amended to read:

40 657.665. (1) Information secured from employing units, employees or other individuals pursuant
41 to this chapter:

42 (a) Shall be confidential and for the exclusive use and information of the Director of the Em-
43 ployment Department in the discharge of duties and shall not be open to the public (other than to
44 public employees in the performance of their public duties under state or federal laws for the pay-
45 ment of unemployment insurance benefits and to public employees in the performance of their public

1 duties under the recognized compensation and retirement, relief or welfare laws of this state), except
 2 to the extent necessary for the presentation of a claim and except as required by the regulations
 3 of the United States Secretary of Health and Human Services pursuant to section 3304(a) of the
 4 Federal Unemployment Tax Act, as amended, and except as required by section 303 of the Social
 5 Security Act, as amended.

6 (b) Shall not be used in any court in any action or proceeding pending therein unless the di-
 7 rector or the state is a party to such action or proceedings or the proceedings concern the estab-
 8 lishment, enforcement or modification of a support obligation and support services are being
 9 provided by the Division of Child Support or the district attorney pursuant to ORS 25.080.

10 (2) However, any claimant or legal representative, at a hearing before an administrative law
 11 judge, shall be supplied with information from such records to the extent necessary for the proper
 12 presentation of a claim.

13 (3) Notwithstanding subsection (1) of this section, information secured from employing units
 14 pursuant to this chapter may be released:

15 (a) To agencies of this state, federal agencies and local government agencies to the extent nec-
 16 cessary to properly carry out governmental planning, performance measurement, program analysis,
 17 socioeconomic analysis and policy analysis functions performed under applicable law. Information
 18 provided such agencies shall be confidential and shall not be released by such agencies in any
 19 manner that would be identifiable as to individuals, claimants, employees or employing units. Costs
 20 of furnishing information pursuant to this subsection not prepared for the use of the Employment
 21 Department shall be borne by the parties requesting the information; and

22 (b) In accordance with ORS 657.673.

23 (4) Nothing in this section shall prevent the Employment Department from providing names and
 24 addresses of employing units to the Bureau of Labor and Industries for the purpose of disseminating
 25 information to employing units. The names and addresses provided shall be confidential and shall
 26 not be used for any other purposes. Costs of furnishing information pursuant to this subsection not
 27 prepared for the use of the Employment Department shall be borne by the bureau.

28 (5) Nothing in this section shall prevent the Employment Department from providing to the
 29 Commissioner of the Bureau of Labor and Industries, for the purpose of performing duties under
 30 ORS 279.348 to 279.380, the names, addresses and industrial codes of employer units, the number of
 31 employees each unit employs during a given time period and the firm number assigned to employer
 32 units by the Employment Department. Information so provided shall be confidential and shall not
 33 be released by the commissioner in any manner that would identify such employing units except to
 34 the extent necessary to carry out the purposes of this subsection and as provided in subsection (1)(b)
 35 of this section. Costs of furnishing information pursuant to this subsection not prepared for the use
 36 of the Employment Department shall be borne by the bureau.

37 (6) Nothing in this section shall prevent the Employment Department from providing information
 38 required under ORS 657.660 (3) and (4) to the Public Employees Retirement System for the purpose
 39 of determining the eligibility of members of the retirement system for disability retirement allow-
 40 ances under ORS chapter 238. The information provided shall be confidential and shall not be used
 41 for any other purposes. Costs of furnishing information pursuant to this subsection shall be borne
 42 by the Public Employees Retirement System.

43 (7) Nothing in this section shall prevent the Employment Department from providing to the
 44 Oregon Economic and Community Development Commission information required by the commission
 45 in performing its duty under ORS 285A.050 to verify changes in employment levels following direct

1 employer participation in Economic and Community Development Department programs or indirect
2 participation through municipalities under ORS 285B.410 to 285B.482 and regional boards and part-
3 nerships under ORS 285B.230 to 285B.269. Information provided to the commission may include an
4 employer's employment level, total subject wages payroll and whole hours worked. The information
5 may not be used for any other purpose and must be held confidential. The commission may not re-
6 lease the information in any manner that would identify the employing unit or any employee except
7 to the extent necessary to carry out its duties under ORS 285A.050. Costs of furnishing information
8 under this subsection that is not prepared for the use of the Employment Department shall be borne
9 by the commission.

10 (8) Any officer or employee of the Director of the Employment Department, who, except with
11 authority of the director or pursuant to regulations, or as otherwise required by law, shall disclose
12 confidential information under this section, thereafter may be disqualified from holding any ap-
13 pointment or employment by the director.

14 (9) Nothing in this section shall prevent the Employment Department from providing information
15 to the Department of Revenue for the purpose of performing its duties under ORS 293.250, or the
16 revenue and tax laws of this state. Information provided may include names and addresses of em-
17 ployers and employees and payroll data of employers and employees. Information so provided shall
18 be confidential and shall not be released by the Director of the Department of Revenue in any
19 manner that would identify such employing unit or employee except to the extent necessary to carry
20 out its duties under ORS 293.250 or in auditing or reviewing any report or return required or per-
21 mitted to be filed under the revenue and tax laws administered by the department. However, the
22 Director of the Department of Revenue shall not disclose any information received to any private
23 collection agency or for any other purpose. Costs of furnishing information pursuant to this sub-
24 section not prepared for the use of the Employment Department shall be borne by the Department
25 of Revenue.

26 (10) Nothing in this section shall prevent the Employment Department from providing informa-
27 tion to the Department of Consumer and Business Services for the purpose of performing its duties
28 under ORS chapters 654 and 656. Information provided may include but is not limited to the name,
29 address, number of employees and industrial classification code of an employer and payroll data of
30 employers and employees. Information provided shall be confidential and may not be released by the
31 Department of Consumer and Business Services in any manner that would identify an employing unit
32 or employee except to the extent necessary to carry out the department's duties under ORS chapters
33 654 and 656, including administrative hearings and court proceedings in which the Department of
34 Consumer and Business Services is a party. Costs of furnishing information pursuant to this sub-
35 section that is not prepared for the use of the Employment Department shall be borne by the De-
36 partment of Consumer and Business Services.

37 (11) Nothing in this section shall prevent the Employment Department from providing informa-
38 tion to the Construction Contractors Board for the purpose of performing its duties under ORS
39 chapter 701. Information provided to the board may include names and addresses of employers and
40 status of their compliance with this chapter.

41 (12) Nothing in this section shall prevent the Employment Department from providing informa-
42 tion to the State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and
43 powers under ORS 453.307 to 453.414. Information so provided shall be the employer or agent name,
44 address, telephone number and standard industrial classification. Information so provided shall be
45 confidential and shall not be released by the State Fire Marshal in any manner that would identify

1 such employing units except to the extent necessary to carry out duties under ORS 453.307 to
 2 453.414. Costs of furnishing information pursuant to this subsection not prepared for the use of the
 3 Employment Department shall be borne by the [office of the] State Fire Marshal.

4 (13) Nothing in this section shall prevent the Employment Department from providing informa-
 5 tion to the Oregon Student Assistance Commission for the purposes of performing the commission's
 6 duties under ORS chapter 348 and Title IV of the Higher Education Act of 1965, as amended. In-
 7 formation provided may include names and addresses of employers and employees and payroll data
 8 of employers and employees. Information so provided shall be confidential and shall not be released
 9 by the Oregon Student Assistance Commission in any manner that would identify such employing
 10 unit or employee except to the extent necessary to carry out duties under ORS chapter 348 or Title
 11 IV of the Higher Education Act of 1965, as amended. Costs of furnishing information pursuant to this
 12 subsection not prepared for the use of the Employment Department shall be borne by the Oregon
 13 Student Assistance Commission.

14 (14) Any person or officer or employee of an entity to whom information is disclosed or given
 15 by the Employment Department pursuant to this section, who divulges or uses such information for
 16 any purpose other than that specified in the provision of law or agreement authorizing the use or
 17 disclosure, may be disqualified from holding any appointment or employment, or performing any
 18 service under contract, with the state agency employing that person or officer.

19 (15) Notwithstanding subsection (1) of this section, the industrial classification code assigned to
 20 an employing unit may be released to state agencies, federal agencies and local government agencies
 21 to the extent necessary to carry out governmental functions performed under applicable law. Except
 22 as provided in ORS 190.270, information provided to such agencies is confidential and may not be
 23 released by the agencies in any manner that would allow identification of an employing unit. Costs
 24 of furnishing information that is not prepared for the use of the Employment Department shall be
 25 paid by the party requesting the information under this subsection.

26 **SECTION 83.** ORS 657.665, as amended by section 311, chapter 794, Oregon Laws 2003, is
 27 amended to read:

28 657.665. (1) Information secured from employing units, employees or other individuals pursuant
 29 to this chapter:

30 (a) Shall be confidential and for the exclusive use and information of the Director of the Em-
 31 ployment Department in the discharge of duties and shall not be open to the public (other than to
 32 public employees in the performance of their public duties under state or federal laws for the pay-
 33 ment of unemployment insurance benefits and to public employees in the performance of their public
 34 duties under the recognized compensation and retirement, relief or welfare laws of this state), except
 35 to the extent necessary for the presentation of a claim and except as required by the regulations
 36 of the United States Secretary of Health and Human Services pursuant to section 3304(a) of the
 37 Federal Unemployment Tax Act, as amended, and except as required by section 303 of the Social
 38 Security Act, as amended.

39 (b) Shall not be used in any court in any action or proceeding pending therein unless the di-
 40 rector or the state is a party to such action or proceedings or the proceedings concern the estab-
 41 lishment, enforcement or modification of a support obligation and support services are being
 42 provided by the Division of Child Support or the district attorney pursuant to ORS 25.080.

43 (2) However, any claimant or legal representative, at a hearing before an administrative law
 44 judge, shall be supplied with information from such records to the extent necessary for the proper
 45 presentation of a claim.

1 (3) Notwithstanding subsection (1) of this section, information secured from employing units
2 pursuant to this chapter may be released:

3 (a) To agencies of this state, federal agencies and local government agencies to the extent nec-
4 essary to properly carry out governmental planning, performance measurement, program analysis,
5 socioeconomic analysis and policy analysis functions performed under applicable law. Information
6 provided such agencies shall be confidential and shall not be released by such agencies in any
7 manner that would be identifiable as to individuals, claimants, employees or employing units. Costs
8 of furnishing information pursuant to this subsection not prepared for the use of the Employment
9 Department shall be borne by the parties requesting the information; and

10 (b) In accordance with ORS 657.673.

11 (4) Nothing in this section shall prevent the Employment Department from providing names and
12 addresses of employing units to the Bureau of Labor and Industries for the purpose of disseminating
13 information to employing units. The names and addresses provided shall be confidential and shall
14 not be used for any other purposes. Costs of furnishing information pursuant to this subsection not
15 prepared for the use of the Employment Department shall be borne by the bureau.

16 (5) Nothing in this section shall prevent the Employment Department from providing to the
17 Commissioner of the Bureau of Labor and Industries, for the purpose of performing duties under
18 ORS 279C.800 to 279C.870, the names, addresses and industrial codes of employer units, the number
19 of employees each unit employs during a given time period and the firm number assigned to em-
20 ployer units by the Employment Department. Information so provided shall be confidential and shall
21 not be released by the commissioner in any manner that would identify such employing units except
22 to the extent necessary to carry out the purposes of this subsection and as provided in subsection
23 (1)(b) of this section. Costs of furnishing information pursuant to this subsection not prepared for the
24 use of the Employment Department shall be borne by the bureau.

25 (6) Nothing in this section shall prevent the Employment Department from providing information
26 required under ORS 657.660 (3) and (4) to the Public Employees Retirement System for the purpose
27 of determining the eligibility of members of the retirement system for disability retirement allow-
28 ances under ORS chapter 238. The information provided shall be confidential and shall not be used
29 for any other purposes. Costs of furnishing information pursuant to this subsection shall be borne
30 by the Public Employees Retirement System.

31 (7) Nothing in this section shall prevent the Employment Department from providing to the
32 Oregon Economic and Community Development Commission information required by the commission
33 in performing its duty under ORS 285A.050 to verify changes in employment levels following direct
34 employer participation in Economic and Community Development Department programs or indirect
35 participation through municipalities under ORS 285B.410 to 285B.482 and regional boards and part-
36 nerships under ORS 285B.230 to 285B.269. Information provided to the commission may include an
37 employer's employment level, total subject wages payroll and whole hours worked. The information
38 may not be used for any other purpose and must be held confidential. The commission may not re-
39 lease the information in any manner that would identify the employing unit or any employee except
40 to the extent necessary to carry out its duties under ORS 285A.050. Costs of furnishing information
41 under this subsection that is not prepared for the use of the Employment Department shall be borne
42 by the commission.

43 (8) Any officer or employee of the Director of the Employment Department, who, except with
44 authority of the director or pursuant to regulations, or as otherwise required by law, shall disclose
45 confidential information under this section, thereafter may be disqualified from holding any ap-

1 pointment or employment by the director.

2 (9) Nothing in this section shall prevent the Employment Department from providing information
3 to the Department of Revenue for the purpose of performing its duties under ORS 293.250, or the
4 revenue and tax laws of this state. Information provided may include names and addresses of em-
5 ployers and employees and payroll data of employers and employees. Information so provided shall
6 be confidential and shall not be released by the Director of the Department of Revenue in any
7 manner that would identify such employing unit or employee except to the extent necessary to carry
8 out its duties under ORS 293.250 or in auditing or reviewing any report or return required or per-
9 mitted to be filed under the revenue and tax laws administered by the department. However, the
10 Director of the Department of Revenue shall not disclose any information received to any private
11 collection agency or for any other purpose. Costs of furnishing information pursuant to this sub-
12 section not prepared for the use of the Employment Department shall be borne by the Department
13 of Revenue.

14 (10) Nothing in this section shall prevent the Employment Department from providing informa-
15 tion to the Department of Consumer and Business Services for the purpose of performing its duties
16 under ORS chapters 654 and 656. Information provided may include but is not limited to the name,
17 address, number of employees and industrial classification code of an employer and payroll data of
18 employers and employees. Information provided shall be confidential and may not be released by the
19 Department of Consumer and Business Services in any manner that would identify an employing unit
20 or employee except to the extent necessary to carry out the department's duties under ORS chapters
21 654 and 656, including administrative hearings and court proceedings in which the Department of
22 Consumer and Business Services is a party. Costs of furnishing information pursuant to this sub-
23 section that is not prepared for the use of the Employment Department shall be borne by the De-
24 partment of Consumer and Business Services.

25 (11) Nothing in this section shall prevent the Employment Department from providing informa-
26 tion to the Construction Contractors Board for the purpose of performing its duties under ORS
27 chapter 701. Information provided to the board may include names and addresses of employers and
28 status of their compliance with this chapter.

29 (12) Nothing in this section shall prevent the Employment Department from providing informa-
30 tion to the State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and
31 powers under ORS 453.307 to 453.414. Information so provided shall be the employer or agent name,
32 address, telephone number and standard industrial classification. Information so provided shall be
33 confidential and shall not be released by the State Fire Marshal in any manner that would identify
34 such employing units except to the extent necessary to carry out duties under ORS 453.307 to
35 453.414. Costs of furnishing information pursuant to this subsection not prepared for the use of the
36 Employment Department shall be borne by the *[office of the]* State Fire Marshal.

37 (13) Nothing in this section shall prevent the Employment Department from providing informa-
38 tion to the Oregon Student Assistance Commission for the purposes of performing the commission's
39 duties under ORS chapter 348 and Title IV of the Higher Education Act of 1965, as amended. In-
40 formation provided may include names and addresses of employers and employees and payroll data
41 of employers and employees. Information so provided shall be confidential and shall not be released
42 by the Oregon Student Assistance Commission in any manner that would identify such employing
43 unit or employee except to the extent necessary to carry out duties under ORS chapter 348 or Title
44 IV of the Higher Education Act of 1965, as amended. Costs of furnishing information pursuant to this
45 subsection not prepared for the use of the Employment Department shall be borne by the Oregon

1 Student Assistance Commission.

2 (14) Any person or officer or employee of an entity to whom information is disclosed or given
3 by the Employment Department pursuant to this section, who divulges or uses such information for
4 any purpose other than that specified in the provision of law or agreement authorizing the use or
5 disclosure, may be disqualified from holding any appointment or employment, or performing any
6 service under contract, with the state agency employing that person or officer.

7 (15) Notwithstanding subsection (1) of this section, the industrial classification code assigned to
8 an employing unit may be released to state agencies, federal agencies and local government agencies
9 to the extent necessary to carry out governmental functions performed under applicable law. Except
10 as provided in ORS 190.270, information provided to such agencies is confidential and may not be
11 released by the agencies in any manner that would allow identification of an employing unit. Costs
12 of furnishing information that is not prepared for the use of the Employment Department shall be
13 paid by the party requesting the information under this subsection.

14 **SECTION 84.** ORS 731.820 is amended to read:

15 731.820. (1)(a) For the purpose of [*maintaining the office of*] **sustaining the functions of the**
16 State Fire Marshal and paying the expenses incident thereto, every insurer transacting insurance
17 covering the peril of fire shall pay a tax to the Director of the Department of Consumer and Busi-
18 ness Services, on or before April 1 of each year, equal to one percent of the gross amount of pre-
19 miums received by it or its insurance producers from such business, from and under its policies
20 covering direct domestic risks in the preceding calendar year after deducting the amount of return
21 premiums paid and the amount of dividend payments made to policyholders or, in the case of a re-
22 ciprocal insurer, the amount of savings paid or credited to the accounts of subscribers, with respect
23 to such policies.

24 (b) For the purpose of paragraph (a) of this subsection the following portions of the amounts
25 required to be reported by line of business in the annual financial statement required by ORS
26 731.574 shall be considered premiums for insurance covering the peril of fire:

27 (A) Fire, 100 percent.

28 (B) Homeowners and farm owners multiple peril, 65 percent.

29 (C) Commercial multiple peril, 50 percent.

30 (D) Inland marine, 20 percent.

31 (E) Automobile physical damage, eight percent.

32 (F) Aircraft physical damage, eight percent.

33 (2) If an insurer ceases to do business or collect premiums on direct domestic risks, it thereupon
34 shall make a report to the director of its premiums subject to taxation as provided in subsection (1)
35 of this section and collected or due as of the date when it ceased to do business or collect premiums
36 on direct domestic risks, and not theretofore reported, and shall forthwith pay to the director the
37 tax thereon.

38 (3) If the director, during the period in which the director under ORS 731.836 may collect taxes
39 owing under this section, finds the amount of such taxes paid by an insurer to have been incorrect,
40 the director shall charge or credit the insurer with the difference between the correct amount of tax
41 and the amount actually paid.

42 **SECTION 85.** ORS 734.577 is amended to read:

43 734.577. (1) On or before July 1 of each calendar year, the Director of the Department of Con-
44 sumer and Business Services shall notify the State Treasurer of the total amount of assessments that
45 member insurers have offset against their fire insurance gross premiums tax under ORS 734.575 (1)

1 for the calendar year ending on the preceding December 31.

2 (2) After each notice given by the director under subsection (1) of this section, an amount equal
 3 to the amount specified in the notice, or the amount needed to fund the current legislatively ap-
 4 proved budget of the [office of the] State Fire Marshal, whichever amount is less, is appropriated and
 5 may be transferred from the General Fund to the State Fire Marshal Fund by action of the appro-
 6 priate legislative review agency.

7 **SECTION 86.** ORS 183.457 is amended to read:

8 183.457. (1) Notwithstanding ORS 8.690, 9.160 and 9.320, and unless otherwise authorized by an-
 9 other law, a person participating in a contested case hearing conducted by an agency described in
 10 this subsection may be represented by an attorney or by an authorized representative subject to the
 11 provisions of subsection (2) of this section. The Attorney General shall prepare model rules for
 12 proceedings with lay representation that do not have the effect of precluding lay representation.
 13 No rule adopted by a state agency shall have the effect of precluding lay representation. The
 14 agencies before which an authorized representative may appear are:

15 (a) The State Landscape Contractors Board in the administration of the Landscape Contractors
 16 Law.

17 (b) The State Department of Energy and the Energy Facility Siting Council.

18 (c) The Environmental Quality Commission and the Department of Environmental Quality.

19 (d) The Department of Consumer and Business Services for proceedings in which an insured
 20 appears pursuant to ORS 737.505.

21 (e) The Department of Consumer and Business Services and any other agency for the purpose
 22 of proceedings to enforce the state building code, as defined by ORS 455.010.

23 (f) The State Fire Marshal [*in the Department of State Police*].

24 (g) The Department of State Lands for proceedings regarding the issuance or denial of fill or
 25 removal permits under ORS 196.800 to 196.825.

26 (h) The Public Utility Commission.

27 (i) The Water Resources Commission and the Water Resources Department.

28 (j) The Land Conservation and Development Commission and the Department of Land Conser-
 29 vation and Development.

30 (k) The State Department of Agriculture, for purposes of hearings under ORS 215.705.

31 (L) The Bureau of Labor and Industries.

32 (2) A person participating in a contested case hearing as provided in subsection (1) of this sec-
 33 tion may appear by an authorized representative if:

34 (a) The agency conducting the contested case hearing has determined that appearance of such
 35 a person by an authorized representative will not hinder the orderly and timely development of the
 36 record in the type of contested case hearing being conducted;

37 (b) The agency conducting the contested case hearing allows, by rule, authorized representatives
 38 to appear on behalf of such participants in the type of contested case hearing being conducted; and

39 (c) The officer presiding at the contested case hearing may exercise discretion to limit an au-
 40 thorized representative's presentation of evidence, examination and cross-examination of witnesses,
 41 or presentation of factual arguments to ensure the orderly and timely development of the hearing
 42 record, and shall not allow an authorized representative to present legal arguments except to the
 43 extent authorized under subsection (3) of this section.

44 (3) The officer presiding at a contested case hearing in which an authorized representative ap-
 45 pears under the provisions of this section may allow the authorized representative to present evi-

1 dence, examine and cross-examine witnesses, and make arguments relating to the:

- 2 (a) Application of statutes and rules to the facts in the contested case;
- 3 (b) Actions taken by the agency in the past in similar situations;
- 4 (c) Literal meaning of the statutes or rules at issue in the contested case;
- 5 (d) Admissibility of evidence; and
- 6 (e) Proper procedures to be used in the contested case hearing.

7 (4) Upon judicial review, no limitation imposed by an agency presiding officer on the partic-
 8 ipation of an authorized representative shall be the basis for reversal or remand of agency action
 9 unless the limitation resulted in substantial prejudice to a person entitled to judicial review of the
 10 agency action.

11 (5) For the purposes of this section, “authorized representative” means a member of a partic-
 12 ipating partnership, an authorized officer or regular employee of a participating corporation, asso-
 13 ciation or organized group, or an authorized officer or employee of a participating governmental
 14 authority other than a state agency.

15 **SECTION 87.** ORS 453.307 is amended to read:

16 453.307. As used in ORS 453.307 to 453.414:

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

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

24 (3) “Employer” means:

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

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

29 (4) “Fire district” means any agency having responsibility for providing fire protection services.

30 (5) “Hazardous substance” means:

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

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

37 (c) Radioactive waste and material as defined in ORS 469.300 and radioactive substance as de-
 38 fined in ORS 453.005.

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

41 (7) “Law enforcement agency” has the meaning given that term in ORS 181.010.

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

44 (9) “Person” includes individuals, corporations, associations, firms, partnerships, joint stock
 45 companies, public and municipal corporations, political subdivisions, the state and any agency

1 thereof, and the federal government and any agency thereof.

2 (10) "Trade secret" has the meaning given that term in ORS 192.501 (2).

3 **SECTION 88.** ORS 453.520 is amended to read:

4 453.520. The Governor shall designate the [*Interagency Hazard Communication Council*] **Oregon**
5 **Homeland Security Department** as the state emergency response commission as required by the
6 Emergency Planning and Community Right-to-Know Act of 1986 [*P.L. 99-499*] (**42 U.S.C. 1101 et**
7 **seq.**).

8 **SECTION 89.** ORS 453.825 is amended to read:

9 453.825. (1) The Department of Transportation shall coordinate development of a single plan and
10 procedure for the regulation of the transportation of hazardous material and waste and radioactive
11 material and waste in Oregon.

12 (2) In developing the plan under subsection (1) of this section, the Department of Transportation
13 shall cooperate with the [*Interagency Hazard Communication Council created under ORS 453.510*]
14 **Oregon Homeland Security Department**.

15 (3) As used in this section, "hazardous waste" has the meaning given that term in ORS 466.005.

16 **SECTION 90.** ORS 264.348 is amended to read:

17 264.348. Copies of the fire prevention code referred to in ORS 264.342 shall be filed with the
18 State Fire [*Marshal's office*] **Marshal** and a copy shall be posted at each fire station within the do-
19 mestic water supply district.

20 **SECTION 91.** ORS 443.760 is amended to read:

21 443.760. (1) Adult foster homes that are certified as residential homes as defined in ORS 197.660
22 shall meet all state and local building, sanitation, utility and fire code requirements applicable to
23 single family dwellings. However, by rule, the Department of Human Services may adopt more
24 stringent standards upon a finding that there is a significant health or safety threat to residents that
25 necessitates a standard not imposed on other single family dwellings.

26 (2) In adopting more stringent standards, the department shall consult with the Department of
27 Consumer and Business Services and the [*office of the*] State Fire Marshal to insure adequate evac-
28 uation of residents.

29 (3) As used in this section, "adequate evacuation" means the ability of a provider to evacuate
30 all residents from the dwelling within three minutes.

31 (4) If a licensed provider rents or leases the premises where the adult foster home is located,
32 the lessor shall charge a flat rate for the lease or rental.

33 **SECTION 92.** ORS 468B.365 is amended to read:

34 468B.365. (1) The Department of Environmental Quality shall approve a contingency plan only
35 if it determines that the plan meets the requirements of ORS 468B.345 to 468B.360 and:

36 (a) The covered vessel or facility demonstrates evidence of compliance with ORS 468B.390; and

37 (b) If implemented, the plan is capable, to the maximum extent practicable in terms of personnel,
38 materials and equipment, of removing oil promptly and properly and minimizing any damage to the
39 environment.

40 (2) An owner or operator of a covered vessel or facility shall notify the department in writing
41 immediately of any significant change affecting the contingency plan, including changes in any fac-
42 tor set forth in this section or in rules adopted by the Environmental Quality Commission. The de-
43 partment may require the owner or operator to update a contingency plan as a result of these
44 changes.

45 (3) A holder of an approved contingency plan does not violate the terms of the contingency plan

1 by furnishing to another plan holder, after notifying the department, equipment, materials or per-
 2 sonnel to assist the other plan holder in a response to an oil discharge. The plan holder shall re-
 3 place or return the transferred equipment, materials and personnel as soon as feasible.

4 (4) The department may attach any reasonable term or condition to its approval or modification
 5 of a contingency plan that the department determines is necessary to insure that the applicant:

6 (a) Has access to sufficient resources to protect environmentally sensitive areas and to prevent,
 7 contain, clean up and mitigate potential oil discharges from the facility or tank vessel;

8 (b) Maintains personnel levels sufficient to carry out emergency operations; and

9 (c) Complies with the contingency plan.

10 (5) The contingency plan must provide for the use by the applicant of the best technology
 11 available at the time the contingency plan was submitted or renewed.

12 (6) The department may require an applicant or a holder of an approved contingency plan to
 13 take steps necessary to demonstrate its ability to carry out the contingency plan, including:

14 (a) Periodic training;

15 (b) Response team exercises; and

16 (c) Verification of access to inventories of equipment, supplies and personnel identified as
 17 available in the approved contingency plan.

18 (7) The department may consider evidence that oil discharge prevention measures such as dou-
 19 ble hulls or double bottoms on vessels or barges, secondary containment systems, hydrostatic test-
 20 ing, enhanced vessel traffic systems or enhanced crew or staffing levels have been implemented and
 21 in its discretion, may make exceptions to the requirements of this section to reflect the reduced risk
 22 of oil discharges from the facility or tank vessel for which the plan is submitted or being modified.

23 (8) Before the department approves or modifies a contingency plan required under ORS 468B.345,
 24 the department shall provide a copy of the contingency plan to the State Department of Fish and
 25 Wildlife, the *[office of the]* State Fire Marshal and the Department of Land Conservation and De-
 26 velopment for review. The agencies **and the State Fire Marshal** shall review the plan according
 27 to procedures and time limits established by rule of the Environmental Quality Commission.

28 (9) Upon approval of a contingency plan, the department shall issue to the plan holder a certif-
 29 icate stating that the plan has been approved. The certificate shall include the name of the facility
 30 or tank vessel for which the certificate is issued, the effective date of the plan and the date by
 31 which the plan must be submitted for renewal.

32 (10) The approval of a contingency plan by the department does not constitute an express as-
 33 surance regarding the adequacy of the plan or constitute a defense to liability imposed under ORS
 34 chapters 468, 468A and 468B or any other state law.

35 **SECTION 93.** Section 6, chapter 1059, Oregon Laws 1999, is amended to read:

36 **Sec. 6.** In carrying out its responsibilities under sections 2 to 9, **chapter 1059, Oregon Laws**
 37 **1999** *[of this 1999 Act]*, the State Department of Agriculture shall seek technical assistance as ap-
 38 propriate from at least the following entities:

39 (1) Oregon Department of Administrative Services;

40 (2) Department of Environmental Quality;

41 (3) State Department of Fish and Wildlife;

42 (4) State Forestry Department;

43 (5) Department of Human Services;

44 (6) Occupational Safety and Health Division of the Department of Consumer and Business Ser-
 45 vices;

- 1 (7) Oregon Poison Center;
- 2 (8) Pesticide Analytical and Response Center; and
- 3 (9) [*Office of the*] State Fire Marshal.

4 **SECTION 94. ORS 401.260, 453.527, 476.020 and 476.050 are repealed.**

5 **SECTION 95. This 2005 Act being necessary for the immediate preservation of the public**
6 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
7 **on its passage.**

8
