
SUBSTITUTE HOUSE BILL 2509

State of Washington

61st Legislature

2010 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Short, Chase, Upthegrove, Chandler, Haler, Ericks, Warnick, and Kretz)

READ FIRST TIME 02/01/10.

1 AN ACT Relating to providing discretion to the department of
2 natural resources to use firefighting funding to ensure that
3 firefighting equipment does not serve as an agent for spreading noxious
4 weeds; amending RCW 76.04.630 and 76.04.610; and adding a new section
5 to chapter 76.04 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 76.04 RCW
8 under the subchapter heading "assessments, obligations, funds" to read
9 as follows:

10 At the discretion of the commissioner of public lands, the
11 department may use any funds provided to it by the forest fire
12 suppression assessments created in RCW 76.04.610 and the landowner
13 contingency forest fire suppression account created in RCW 76.04.630 to
14 cover the costs associated with cleaning firefighting equipment used
15 during a fire so as to minimize the possibility of the equipment
16 spreading the seeds of noxious weeds. The commissioner of public lands
17 shall consider the location and size of the fire, type of fire, whether
18 fire response involves the use of out-of-state equipment, and other
19 factors as appropriate when determining whether to clean firefighting

1 equipment during a fire response. The determination to clean
2 firefighting equipment shall not impede any response to a fire.
3 Nothing in this section requires the department to clean firefighting
4 equipment.

5 **Sec. 2.** RCW 76.04.630 and 1993 c 36 s 2 are each amended to read
6 as follows:

7 (1) There is created a landowner contingency forest fire
8 suppression account in the state treasury. Moneys in the account may
9 be spent only as provided in this section. Disbursements from the
10 account shall be on authorization of the commissioner of public lands
11 or the commissioner's designee. The account is subject to the
12 allotment procedure provided under chapter 43.88 RCW, but no
13 appropriation is required for disbursements.

14 (2) The department may expend from this account the amounts as may
15 be available and as it considers appropriate for the payment of
16 emergency fire costs resulting from a participating landowner fire,
17 including, at the discretion of the commissioner of public lands as
18 described in section 1 of this act, the costs associated with cleaning
19 firefighting equipment used during a fire so as to minimize the
20 possibility of the equipment spreading the seeds of noxious weeds. The
21 determination to clean firefighting equipment shall not impede any
22 response to a fire. Nothing in this section requires the department to
23 clean firefighting equipment. The department may, when moneys are
24 available from the landowner contingency forest fire suppression
25 account, expend moneys for summarily abating, isolating, or reducing an
26 extreme fire hazard under RCW 76.04.660. All moneys recovered as a
27 result of the department's actions, from the owner or person
28 responsible, under RCW 76.04.660 shall be deposited in the landowner
29 contingency forest fire suppression account.

30 (3) When a determination is made that the fire was started by other
31 than a landowner operation, moneys expended from this account in the
32 suppression of such fire shall be recovered from the general fund
33 appropriations as may be available for emergency fire suppression
34 costs. The department shall deposit in the landowner contingency
35 forest fire suppression account moneys paid out of the account which
36 are later recovered, less reasonable costs of recovery.

1 (4) This account shall be established and renewed by an annual
2 special forest fire suppression account assessment paid by
3 participating landowners at a rate to be established by the department.
4 In establishing assessments, the department shall seek to establish and
5 thereafter reestablish a balance in the account of three million
6 dollars. The department may establish a flat fee assessment of no more
7 than seven dollars and fifty cents for participating landowners owning
8 parcels of fifty acres or less. For participating landowners owning
9 parcels larger than fifty acres, the department may charge the flat fee
10 assessment plus a per acre assessment for every acre over fifty acres.
11 The per acre assessment established by the department may not exceed
12 fifteen cents per acre per year. The assessments may differ to
13 equitably distribute the assessment based on emergency fire suppression
14 cost experience necessitated by landowner operations. Amounts assessed
15 for this account shall be a lien upon the forest lands with respect to
16 which the assessment is made and may be collected as directed by the
17 department in the same manner as forest protection assessments.
18 Payment of emergency costs from this account shall in no way restrict
19 the right of the department to recover costs pursuant to RCW 76.04.495
20 or other laws.

21 (5) When the department determines that a forest fire was started
22 in the course of or as a result of a landowner operation, it shall
23 notify the forest fire advisory board of the determination. The
24 determination shall be final, unless, within ninety days of the
25 notification, the forest fire advisory board or an interested party
26 serves a request for a hearing before the department. The hearing
27 shall constitute an adjudicative proceeding under chapter 34.05 RCW,
28 the administrative procedure act, and an appeal shall be in accordance
29 with RCW 34.05.510 through 34.05.598.

30 **Sec. 3.** RCW 76.04.610 and 2007 c 110 s 1 are each amended to read
31 as follows:

- 32 (1)(a) If any owner of forest land within a forest protection zone
33 neglects or fails to provide adequate fire protection as required by
34 RCW 76.04.600, the department shall provide such protection and shall
35 annually impose the following assessments on each parcel of such land:
36 (i) A flat fee assessment of seventeen dollars and fifty cents; and
37 (ii) twenty-seven cents on each acre exceeding fifty acres.

1 (b) Assessors may, at their option, collect the assessment on tax
2 exempt lands. If the assessor elects not to collect the assessment,
3 the department may bill the landowner directly.

4 (2) An owner who has paid assessments on two or more parcels, each
5 containing fewer than fifty acres and each within the same county, may
6 obtain the following refund:

7 (a) If all the parcels together contain less than fifty acres, then
8 the refund is equal to the flat fee assessments paid, reduced by the
9 total of (i) seventeen dollars and (ii) the total of the amounts
10 retained by the county from such assessments under subsection (5) of
11 this section.

12 (b) If all the parcels together contain fifty or more acres, then
13 the refund is equal to the flat fee assessments paid, reduced by the
14 total of (i) seventeen dollars, (ii) twenty-seven cents for each acre
15 exceeding fifty acres, and (iii) the total of the amounts retained by
16 the county from such assessments under subsection (5) of this section.

17 Applications for refunds shall be submitted to the department on a
18 form prescribed by the department and in the same year in which the
19 assessments were paid. The department may not provide refunds to
20 applicants who do not provide verification that all assessments and
21 property taxes on the property have been paid. Applications may be
22 made by mail.

23 In addition to the procedures under this subsection, property
24 owners with multiple parcels in a single county who qualify for a
25 refund under this section may apply to the department on an application
26 listing all the parcels owned in order to have the assessment computed
27 on all parcels but billed to a single parcel. Property owners with the
28 following number of parcels may apply to the department in the year
29 indicated:

30 Year	Number of Parcels
31 2002	10 or more parcels
32 2003	8 or more parcels
33 2004 and thereafter	6 or more parcels

34 The department must compute the correct assessment and allocate one
35 parcel in the county to use to collect the assessment. The county must
36 then bill the forest fire protection assessment on that one allocated
37 identified parcel. The landowner is responsible for notifying the
38 department of any changes in parcel ownership.

1 (3) Beginning January 1, 1991, under the administration and at the
2 discretion of the department up to two hundred thousand dollars per
3 year of this assessment shall be used in support of those rural fire
4 districts assisting the department in fire protection services on
5 forest lands.

6 (4) For the purpose of this chapter, the department may divide the
7 forest lands of the state, or any part thereof, into districts, for
8 fire protection and assessment purposes, may classify lands according
9 to the character of timber prevailing, and the fire hazard existing,
10 and place unprotected lands under the administration of the proper
11 district. Amounts paid or contracted to be paid by the department for
12 protection of forest lands from funds at its disposal shall be a lien
13 upon the property protected, unless reimbursed by the owner within ten
14 days after October 1st of the year in which they were incurred. The
15 department shall be prepared to make statement thereof, upon request,
16 to a forest owner whose own protection has not been previously approved
17 as to its adequacy, the department shall report the same to the
18 assessor of the county in which the property is situated. The assessor
19 shall extend the amounts upon the tax rolls covering the property, and
20 upon authorization from the department shall levy the forest protection
21 assessment against the amounts of unimproved land as shown in each
22 ownership on the county assessor's records. The assessor may then
23 segregate on the records to provide that the improved land and
24 improvements thereon carry the millage levy designed to support the
25 rural fire protection districts as provided for in RCW 52.16.170.

26 (5) The amounts assessed shall be collected at the time, in the
27 same manner, by the same procedure, and with the same penalties
28 attached that general state and county taxes on the same property are
29 collected, except that errors in assessments may be corrected at any
30 time by the department certifying them to the treasurer of the county
31 in which the land involved is situated. Assessments shall be known and
32 designated as assessments of the year in which the amounts became
33 reimbursable. Upon the collection of assessments the county treasurer
34 shall place fifty cents of the total assessments paid on a parcel for
35 fire protection into the county current expense fund to defray the
36 costs of listing, billing, and collecting these assessments. The
37 treasurer shall then transmit the balance to the department.
38 Collections shall be applied against expenses incurred in carrying out

1 the provisions of this section, including necessary and reasonable
2 administrative costs incurred by the department in the enforcement of
3 these provisions. The department may also expend sums collected from
4 owners of forest lands or received from any other source for necessary
5 administrative costs in connection with the enforcement of RCW
6 76.04.660.

7 (6) When land against which forest protection assessments are
8 outstanding is acquired for delinquent taxes and sold at public
9 auction, the state shall have a prior lien on the proceeds of sale over
10 and above the amount necessary to satisfy the county's delinquent tax
11 judgment. The county treasurer, in case the proceeds of sale exceed
12 the amount of the delinquent tax judgment, shall immediately remit to
13 the department the amount of the outstanding forest protection
14 assessments.

15 (7) All nonfederal public bodies owning or administering forest
16 land included in a forest protection zone shall pay the forest
17 protection assessments provided in this section and the special forest
18 fire suppression account assessments under RCW 76.04.630. The forest
19 protection assessments and special forest fire suppression account
20 assessments shall be payable by nonfederal public bodies from available
21 funds within thirty days following receipt of the written notice from
22 the department which is given after October 1st of the year in which
23 the protection was provided. Unpaid assessments are not a lien against
24 the nonfederal publicly owned land but shall constitute a debt by the
25 nonfederal public body to the department and are subject to interest
26 charges at the legal rate.

27 (8) A public body, having failed to previously pay the forest
28 protection assessments required of it by this section, which fails to
29 suppress a fire on or originating from forest lands owned or
30 administered by it, is liable for the costs of suppression incurred by
31 the department or its agent and is not entitled to reimbursement of
32 costs incurred by the public body in the suppression activities.

33 (9) The department may adopt rules to implement this section,
34 including, but not limited to, rules on levying and collecting forest
35 protection assessments.

36 (10) At the discretion of the commissioner of public lands as
37 described in section 1 of this act, the department may expend from the
38 forest protection assessments as may be available for the costs

1 associated with cleaning firefighting equipment used during a fire so
2 as to minimize the possibility of the equipment spreading the seeds of
3 noxious weeds. The determination to clean firefighting equipment shall
4 not impede any response to a fire. Nothing in this subsection requires
5 the department to clean firefighting equipment.

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