

HOUSE BILL REPORT

SHB 1506

As Amended by the Senate

Title: An act relating to fire suppression efforts and capabilities on unprotected land outside a fire protection jurisdiction.

Brief Description: Addressing fire suppression efforts and capabilities on unprotected land outside a fire protection jurisdiction.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Chandler, Takko and Johnson).

Brief History:

Committee Activity:

Judiciary: 2/9/11, 2/10/11 [DPS];

General Government Appropriations & Oversight: 2/17/11 [DPS(JUDI)].

Floor Activity:

Passed House: 2/28/11, 96-0.

Senate Amended.

Passed Senate: 4/7/11, 45-3.

Brief Summary of Substitute Bill

- Encourages owners of property located outside a fire protection service jurisdiction to form or annex into a fire protection jurisdiction or enter into an agreement with a fire protection service agency.
- Authorizes a fire protection service agency to provide services outside its jurisdiction under certain circumstances and provides the agency limited immunity from civil liability for providing those services.
- Amends the seller's disclosure form to include a statement whether the property being sold is within a fire protection service district.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne,

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Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Frockt, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

Staff: Trudes Tango (786-7384).

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS & OVERSIGHT

Majority Report: The substitute bill by Committee on Judiciary be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Hudgins, Chair; Miloscia, Vice Chair; McCune, Ranking Minority Member; Taylor, Assistant Ranking Minority Member; Ahern, Blake, Fitzgibbon, Ladenburg, Moscoso, Pedersen, Van De Wege and Wilcox.

Staff: Owen Rowe (786-7391).

Background:

Fire Protection Services.

State law authorizes the creation of several types of fire protection and emergency service providers to serve cities, towns, and counties. The types of fire protection service providers include city or town fire departments, fire protection districts, and regional fire protection service authorities.

Each type of fire protection service provider operates within a specified jurisdiction and each has the authority to tax residents for the services provided. Fire protection jurisdictions are authorized to enter into interlocal agreements among themselves to provide mutual aid outside of their jurisdictional boundaries.

Residents of every area of the state may establish a local fire protection service or a fire protection district to provide fire prevention, suppression, and emergency medical services. However, the creation of a service or district requires either a public vote or legislative action by the appropriate local government. The inability to create a fire protection service, either due to inaction by the resident voters or by the local governing body, results in some areas of the state not being within the jurisdiction of any of the various fire protection service providers. In such areas, residents do not have access to publicly funded fire or emergency services.

Seller Disclosure Forms.

Statutes governing real estate transactions require that a seller provide a disclosure statement, on a prescribed form, to the buyer as part of a residential real property sale. The form requires disclosure, based upon the seller's personal knowledge, of matters on various issues, such as title concerns, sewer and septic systems, structural concerns, and hazards such as flooding.

Summary of Substitute Bill:

Fire Protection Services on Unprotected Land.

"Unprotected land" means improved property located outside a fire protection jurisdiction. Property owners of unprotected lands are encouraged to form or annex into a fire protection jurisdiction or to enter into an agreement with a fire protection service agency for fire protection services. Any agreement must be in writing and include a risk assessment of the property and a capabilities assessment of the district.

Property owners of unprotected land who choose not to form or annex into a fire protection agency do so willingly and with full knowledge that a fire protection service agency is not obligated to provide services to unprotected land.

Absent a written contractual agreement, a fire protection service agency may initiate fire protection services on unprotected land outside its jurisdiction when:

- services are specifically requested by a landowner or other fire service protection agency;
- service could reasonably be believed to prevent the spread of fire onto protected lands; or
- service could reasonably be believed to substantially mitigate the risk of harm to life or property by preventing the spread of fire onto other unprotected lands.

The property owner of the unprotected land must reimburse the agency for reasonable costs, not to exceed actual costs, incurred as a result of the agency's response. Cost recovery is based on the Washington Fire Chiefs standardized fire service fee schedule. If the property owner fails to pay the agency for its services, the agency is entitled to pursue payment through a collection agency or through court action.

Liability.

Any fire service protection agency and its firefighters, whether paid or volunteer, taking part in firefighting efforts outside its jurisdiction or providing emergency care, rescue, assistance, or recovery services at an emergency, is not liable for civil damages resulting from any act or omission in rendering services, except for acts or omissions constituting gross negligence or willful or wanton misconduct.

Seller's Disclosure Form.

The seller's disclosure form is amended to include a statement regarding whether the property is located within a fire protection district.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment requires the property owner to reimburse an agency initiating firefighting services on unprotected land outside its jurisdiction for actual costs incurred that are proportionate to the fire itself (rather than for reasonable costs not exceeding actual costs incurred as a result of the response).

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Judiciary):

(In support) Wild fires can get out of control quickly and create havoc. The bill is part of a series of bills to bring predictability and broader understanding to people who live outside of any fire jurisdiction. The bill attempts to take a step towards providing a more efficient, timely, and economical response to fire fighting. The bill tries to make sure that people understand their rights and responsibilities when they live outside of a fire district, and creates a clear understanding of when a fire service agency will and will not respond. When firefighters respond to a call outside of their jurisdiction, they should not be held liable. This bill is a practical approach to solving the dilemma for fire agencies regarding whether to respond to fires in unprotected land or not. Fire agencies are criticized for responding because they are leaving the area of protected landowners, who pay taxes, but they are also criticized when they do not respond. The fire chiefs will be directed to make contact with people and talk about the provisions of the bill and explain options for landowners. It encourages landowners to annex into a fire district and it establishes what the landowners' reimbursement would be under the circumstances. There was a multi-stakeholder group, convened at the direction of the Legislature, to study the challenges of wild fire protection. This bill is a small piece from that study.

(With concerns) Existing property owners will not get notice of the changes created by the bill. The bill starts down a road where people are paying for a service and if there is no payment, there would be no services.

(Opposed) None.

Staff Summary of Public Testimony (General Government Appropriations & Oversight):

(In support) This bill seeks to improve fire response in the state by improving the ability of fire agencies to coordinate by allowing them to move out of district boundaries. The bill protects fire agencies from liability concerns, so that when they act as good Samaritans they are not punished. This bill will save the state the money it spends on fire mobilization. This bill will shift costs from the State General Fund to owners of unprotected properties.

(Opposed) None.

Persons Testifying (Judiciary): (In support) Representative Chandler, prime sponsor; Mike Brown, Washington Fire Chiefs; Joe Shramek, Washington Department of Natural Resources; and Dylan Doty, Washington Fire Chiefs Association.

(With concerns) Larry Shannon, Washington State Association for Justice.

Persons Testifying (General Government Appropriations & Oversight): Representative Chandler, prime sponsor; Dylan Doty and Mike Brown, Washington Association of Fire Chiefs; and Joe Shramek, Department of Natural Resources.

Persons Signed In To Testify But Not Testifying (Judiciary): None.

Persons Signed In To Testify But Not Testifying (General Government Appropriations & Oversight): None.