

SENATE BILL REPORT

SB 5373

As Reported by Senate Committee On:
Government Operations, Tribal Relations & Elections, February 15, 2011

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: Senators Chase, Prentice, Shin and Nelson.

Brief History:

Committee Activity: Government Operations, Tribal Relations & Elections: 2/10/11, 2/15/11 [DPS].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5373 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pridemore, Chair; Swecker, Ranking Minority Member; Benton, Chase, Nelson and Roach.

Staff: Karen Epps (786-7424)

Background: The Department of Natural Resources (DNR) is responsible for forest fire prevention and response on both state-owned and private forest land in Washington. Forest land is unimproved land with enough trees or flammable material to create a fire menace to life or property. Sagebrush and grass areas east of the Cascade mountains may be considered forest land if such lands are adjacent to, or intermingled with, tree growth. For protection purposes, forest land does not include structures.

Fire Protection Zones. DNR is responsible for working with the state's other fire control agencies to define geographic areas of responsibility. Fire protection zones include all forest land which DNR is obligated to protect. Fire Protection Zones do not include forest lands within rural fire districts or municipal fire districts which are not appropriate for protection from DNR.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Forest Fire Protection Assessments. The costs of forest fire protection are to be equitably shared between forest landowners and the state. Owners of forest land are obligated to provide forest fire protection on their land at a level that provides adequate protection against the spread of fire from or across their land.

Fire Protection Districts. Fire protection districts are created to provide fire prevention, fire suppression, and emergency services within a district's boundaries. A fire protection district may be established through voter approval and financed by imposing regular property taxes, excess voter-approved property tax levies, and benefit charges. Currently, firefighters are not required to engage in fire suppression efforts if the fire occurs outside the boundaries of their fire protection district.

Indemnity. The state provides indemnity to persons appointed and regularly enrolled as emergency workers for damage to property or injury or death to persons caused by acts done or attempted by the emergency worker within the scope of their assigned duties. This immunity does not extend to areas outside of an emergency worker's jurisdiction unless an interlocal agreement has been established.

Seller Disclosure Statement. A seller of residential land must provide a buyer with a disclosure statement about the land unless the buyer waives the right to receive it. The disclosure requirement applies to sales of unimproved residential land and improved residential land.

The disclosure forms are specified in statute. The disclosure for unimproved residential land concerns title, water, sewer/septic systems, electrical/gas, flooding, soil stability, environmental, and homeowners' association/common interests. The disclosure for improved residential land concerns title, water, sewer/on-site sewage system, structural, systems and fixtures, homeowners' association/common interests, environmental, and manufactured and mobile homes.

Summary of Bill (Recommended Substitute): Fire Protection. Property owners of unprotected lands are encouraged to form or annex into a fire protection jurisdiction or enter into an agreement with a fire protection service agency or agencies for firefighting services. Any agreement entered into between owners of unprotected land and fire protection service agencies must be in writing. A fire protection service agency includes any local, state, or federal governmental entity responsible for firefighting services, including fire protection districts, regional fire protection service authorities, cities, towns, port districts, DNR, and federal reservations.

Property owners of unprotected land that do not form or annex into a fire protection jurisdiction or enter into an agreement with a fire protection service agency or agencies for firefighting services do so willingly and with full knowledge that a fire protection service agency is not obligated to provide firefighting services to unprotected land. A fire protection service agency may initiate firefighting services on unprotected land in certain circumstances including when:

- service was specifically requested by the landowner or other fire protection service agency;
- service is needed to prevent the spread of fire onto lands protected by the agency; and

- service is needed to substantially mitigate the risk of harm to life or property by preventing the spread of a fire onto unprotected lands.

The property owner must reimburse an agency initiating firefighting services on unprotected land outside its fire protection jurisdiction for reasonable costs, but not more than actual costs, that are incurred as a result of the response.

Indemnity. Any fire protection service agency, whether paid or volunteer, is not liable for civil damages under the following circumstances: (1) when engaging in firefighting efforts outside their jurisdiction; and (2) when providing emergency care, rescue, assistance, or recovery services at the scene of an emergency. This immunity does not include acts or omissions constituting gross negligence or willful or wanton misconduct.

Unimproved Residential Real Property Disclosure Statement. A question is added to the disclosure statement under the other facts section. The seller must disclose if the property is located within a city, county, or district or within a DNR fire protection zone that provides fire protection services.

Improved Residential Real Property Disclosure Statement. A question is added to the disclosure statement under the other facts section. The seller must disclose if the property is located within a city, county, or district or within a DNR fire protection zone that provides fire protection services.

EFFECT OF CHANGES MADE BY GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS COMMITTEE (Recommended Substitute): Specifies that any agreement entered into between owners of unprotected land and fire protection service agencies be in writing. Specifies that reimbursement of firefighting costs cannot exceed actual costs.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This bill is the result of a collaborative process with landowners, fire chiefs, and staff from DNR over several years. This bill has several critical elements. The main point of this bill is to create an incentive for firefighters to go into unprotected land. When doing so that leaves their taxpayer base unprotected. This is aimed at creating an incentive for firefighters in otherwise unprotected land. This bill is designed to educate the landowners so that they can make an informed decision whether they are in a fire protection district or not. This bill allows for reasonable cost recovery if firefighters fight fires outside their district. This bill recognizes that some folks live well outside a fire district and those folks are encouraged to form a fire protection district or contract with the nearest fire protection district. This bill is taking a practical approach to how to solve the issue of fire protection on no man's land.

Persons Testifying: PRO: Senator Chase, prime sponsor; Dylan Doty, Washington Fire Chiefs Association; Mike Brown, Washington Fire Chiefs Association; Joe Schramek, DNR.