

HOUSE BILL REPORT

ESHB 1399

As Passed House:
March 11, 2013

Title: An act relating to giving general law enforcement authority to natural resource investigators.

Brief Description: Giving general law enforcement authority to natural resource investigators.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Stanford, Tharinger, Moscoso, Takko, Appleton, Bergquist, Liias and Reykdal).

Brief History:

Committee Activity:

Public Safety: 2/19/13, 2/21/13 [DPS].

Floor Activity:

Passed House: 3/11/13, 51-47.

Brief Summary of Engrossed Substitute Bill

- Changes the Department of Natural Resources (DNR) from a limited authority law enforcement agency to a general authority law enforcement agency.
- Provides that only the employees of the DNR who have peace officer certification may be considered general authority law enforcement officers.
- Excludes natural resource investigators from the Washington Law Enforcement Officers' and Fire Fighter's Retirement System.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Goodman, Chair; Roberts, Vice Chair; Hayes, Assistant Ranking Minority Member; Appleton, Hope, Moscoso, Pettigrew and Takko.

Minority Report: Do not pass. Signed by 2 members: Representatives Klippert, Ranking Minority Member; Holy.

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.

Staff: Yvonne Walker (786-7841).

Background:

The Department of Natural Resources (DNR) manages approximately 5.6 million acres of forest, range, agricultural, aquatic, and commercial lands in Washington for a number of different purposes. In addition, the DNR is generally responsible for the enforcement of the state's natural resources laws, monitoring recreational activities on the DNR land, and monitoring criminal activity as it relates to the DNR land. The DNR is classified in statute as a limited authority Washington law enforcement agency. The DNR employs approximately 10 limited authority peace officers called natural resource investigators. These officers are responsible for the apprehension or detection of persons committing infractions or violating criminal laws within a limited subject area as it relates to the DNR-managed lands.

Limited Authority Agency.

Limited authority Washington law enforcement agencies and officers have, as one of its functions, the apprehension or detection of persons committing infractions or violating traffic or specific criminal laws relating to limited subject areas. Agencies so designated include, but are not limited to: the DNR, the Department of Social and Health Services, the Gambling Commission, the Department of Corrections, the Washington State Parks and Recreation Commission, and the Washington State Liquor Control Board.

General Authority Agency.

General authority Washington law enforcement agencies and officers, have as their primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general of the state throughout the territorial boundaries of the state, as distinguished from a limited authority Washington law enforcement agency. It also includes any other unit of government expressly designated by statute as such an agency. The Washington State Patrol (WSP) and the Department of Fish and Wildlife (DFW) are general authority law enforcement agencies.

A "peace officer" means any law enforcement personnel subject to basic law enforcement training under the Criminal Justice Training Commission (CJTC). Commissioned officers of the WSP and the DFW officers are considered peace officers.

Law Enforcement Officers' and Fire Fighter's Retirement System.

The Law Enforcement Officers' and Fire Fighters' (LEOFF) Retirement System provides retirement benefits to full-time general authority law enforcement officers and firefighters throughout Washington. The LEOFF Plan 2 permits early retirement beginning at age 50 for members with 20 years of service with a 3 percent per year reduction to their retirement allowance up until the age of 53.

Summary of Engrossed Substitute Bill:

The DNR is designated as a general authority Washington law enforcement agency, with enforcement authority equal to that of the WSP and the DFW. The DNR has the authority to enforce the traffic and criminal laws of the state throughout the territorial bounds of the state.

The definition of peace officer is expanded to include natural resource investigators. However, only those employees of the DNR who have peace officer certification may be considered general authority law enforcement officers.

The act does not provide natural resource investigators with membership in the LEOFF Retirement System.

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:

(In support) The DNR is different than other limited authority law enforcement agencies. Other agencies have specific laws that they are required to go out and enforce. The DNR enforces all laws of the state on the DNR managed lands. However, there are areas that they often patrol which are remote and connected by roads that are not on the DNR lands. This means that natural resource investigators are constantly switching back and forth from being law enforcement officers to being civilians. This bill will allow them to be general law enforcement officers when they are not on DNR lands.

Natural resource investigators would also like to help county sheriffs but they can only be law enforcement officers on DNR land. Currently natural resource investigators have to go through a process to be cross-commissioned but this creates a lot of bureaucracy. Although the DNR currently has 25 agreements with counties for cross-commissioned deputized officers, this bill is a shortcut to avoid the paperwork to do their jobs properly.

This bill also increases public safety. The public does not understand the difference between a limited and a general authority officer. The public's expectation is when they see a uniformed officer they expect that person to deal with the situation at hand.

Giving the DNR general authority power gives them extra responsibility. One of the concerns with this bill is that it requires the officers to meet all the CJTC requirements to ensure all the officers meet certification requirements. However, all of the current natural resource investigators were general authority law enforcement officers previously with other agencies. The DNR complies with chapter 43.101 of Washington's statute and all of their officers have gone through an extensive background check and a psychological and polygraph exam as a requirement for being hired at the agency.

There will be no fiscal impact to the state if this bill is enacted. Nothing in the bill reclassifies the officers and those officers will also remain in their current retirement program. The DNR officers would not need additional training because they all currently meet the training requirements required of a general authority law enforcement officer. The citizens of the state would gain 10 more additional general authority officers at no cost to the state. This will allow the officers to assist a person without worrying about liability to the

agency. General authority is the appropriate level of authority that should be given to the natural resource investigators to more effectively and efficiently perform their current duties.

(In support with amendments(s)) This bill increases public safety and gives natural resource investigators those enforcement powers needed to enforce the criminal laws of the state. However, if the bill passes out of committee, the DNR recommends four amendments. The first amendment ensures that the DNR's natural resource investigators remain housed at and employed by the DNR, and that enforcement actions and investigations carried out by the DNR investigators are conducted first and foremost to protect the state-owned and trust lands managed by the DNR. The next two amendments are clean-up amendments that clarify that natural resource investigators are peace officers and ensures that they will have the powers to enforce the general criminal statutes of the state. The last amendment is a technical amendment.

(Opposed) The current system in place is sufficient and it is the way sheriffs and police chiefs want it to work. Sheriffs already have the authority to grant commission authority to those officers of their choice. This power allows those sheriffs to determine that the people that they are going to give law enforcement authority to in their jurisdictions have all the required elements in place. Sheriffs need to maintain the ability to determine who is performing law enforcement services within their county.

In addition, there has been a move to prevent the National Forest Service from expanding their powers off national forests. The National Forest Service is being encouraged to work with the sheriffs and police chiefs across the state to enforce laws. This bill fails to recognize that sheriffs are the chief law enforcement officer of the county. There is also a fiscal impact to this bill from the additional citations that will be issued. That in turn creates an impact on the courts, probation departments, and the jails. The Washington Association of Sheriffs and Police Chiefs should work with the DNR to find a more comprehensive way for sheriffs and police chiefs to get these officers to work with them.

Persons Testifying: (In support) Representative Stanford, prime sponsor; Bruce Bjork, Washington Department of Fish & Wildlife; Larry Raedel, Jason Bodine, James McCarthy, and Chris Rankin, Department of Natural Resources; and Sharon Ness, Washington Public Employees Association.

(In support with amendment(s)) Lenny Young, Department of Natural Resources.

(Opposed) Mitch Barker, Washington Association of Sheriffs and Police Chiefs; and Dave Brown, Skamania County Sheriff's Office.

Persons Signed In To Testify But Not Testifying: None.