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**SUBSTITUTE SENATE BILL 6657**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Parlette, Hargrove, and Hobbs)

AN ACT Relating to wildfire management; amending RCW 70.94.6536, 70.94.6538, 76.04.205, 76.04.315, 38.52.070, 43.43.960, 43.43.961, 43.43.961, 43.43.962, 43.88.550, and 41.40.023; reenacting and amending RCW 76.04.005 and 43.43.960; adding new sections to chapter 76.04 RCW; adding a new section to chapter 38.52 RCW; creating new sections; providing effective dates; providing expiration dates; and declaring an emergency.

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

**PART 1**

**INTENT AND FINDINGS**

NEW SECTION. **Sec.**  LEGISLATIVE FINDINGS. The legislature finds that the record breaking 2014 and 2015 fire seasons have devastated our lands and local economies. Wildfires burned over one million acres in Washington. Nearly five hundred families and businesses saw their homes and structures destroyed by wildfire during the 2015 fire season alone. Communities dependent on seasonal tourism and the agriculture and timber industries struggled with nearly six months of unpredictable closures due to wildfire danger and smoke hazards.

The legislature recognizes that fire is a natural part of forest ecosystems. However, past fire suppression paradigms, along with significant decreases in federal forest management activities and severe drought conditions have led to excessive fuel accumulation in overstocked stands that are susceptible to intense burns.

The legislature finds that approximately two million seven hundred thousand acres of the ten million acres of forest land in eastern Washington are at high risk of damage by disease, insects, and wildfire. It is the intent of the legislature to initiate aggressive action to reduce wildfire fuel and restore forest health conditions. The legislature intends to employ all available fire prevention techniques, including mechanical thinning and prescribed fire, to restore Washington forest land health, ensure public health and safety, and support local communities most affected by wildfire. The legislature also finds that buffer zones on lands adjacent to forested lands significantly reduce the risk of wildfire spread and benefit the maintenance of biodiversity in our lands.

The legislature finds that prescribed fire is a valuable tool for fuel management and ecosystem restoration. The legislature further finds that over ninety-nine percent of prescribed fires are successfully held within planned perimeters. Short-term risks must be balanced with long-term benefits to fire-dependent ecosystems, habitat, and public health and safety.

**PART 2**

**STATEWIDE FIRE MANAGEMENT**

NEW SECTION. **Sec.**  STATE WILDFIRE INSURANCE POLICY. (1) Subject to the availability of amounts appropriated for this specific purpose, by July 31, 2016, the department of enterprise services, in coordination with the department of natural resources, must use a request for information to a broad base of wildfire insurance carriers to gain an understanding of requirements to insure the state against wildfire suppression costs and data needed for an accurate quote.

(2) By September 30, 2016, the department of enterprise services, in coordination with the department of natural resources, must use a request for quote to a broad base of wildfire insurance carriers to discern how each carrier would meet the needs of Washington and the cost of annual premiums. Preference must be given to insurance policies with a deductible of fifty million dollars or less, but for purposes of this section and for comparison, the departments may solicit quotes with varying deductibles.

(3) By November 30, 2016, the department of enterprise services, in coordination with the department of natural resources, must report to the legislature on: The criteria used in the request for information and request for quote; information gathered; premium and deductible data; and all other relevant information gathered during the solicitation process. If more than one insurance carrier offers a policy quote, the report must also include recommendations as to which insurer and insurance policy best fits the needs of the state. No formal request for proposal may be issued under this section absent express authorization from the legislature.

NEW SECTION. **Sec.**  A new section is added to chapter 76.04 RCW to read as follows:

FOREST HEALTH AND WILDFIRE MANAGEMENT STRATEGIC PLAN.

(1) Subject to the availability of amounts appropriated for this specific purpose, by December 31, 2018, the department must develop and implement a twenty-year strategic plan to treat areas of Washington forest land identified by the department as being in poor forest health condition and to manage resources for wildfire prevention and suppression in a more efficient and effective manner. The department must develop the forest health and wildfire management strategic plan in consultation with relevant local, state, and federal agencies, tribes, forest landowners, representatives from milling and log transportation industries, and other interested parties from the nonprofit and commercial sectors.

(2) The strategic plan must be updated at least every two years and must include timelines and, at a minimum, strategies to:

(a) Implement an actionable plan to restore and maintain statewide forest health and resilience within twenty years;

(b) Facilitate communication and coordination between local, regional, state, federal, and tribal fire personnel;

(c) Improve public education and local outreach regarding wildland fire prevention and suppression activities;

(d) Streamline contract procedures to perform forest health treatments on public and private lands;

(e) Expand technical assistance programs for local governmental entities and private landowners;

(f) Address barriers to wildfire prevention and suppression activities, particularly in rural areas where resources may be limited;

(g) Using best available science, manage riparian areas to create buffers against wildfire and protect water quality and aquatic species habitat from detrimental effects of wildfires;

(h) Deploy efficient and effective initial attack response to prevent wildland fire spread; and

(i) Integrate statewide usage of upgraded fire modeling technology and remote wildfire detection technology, such as ground-based smoke sensors or manned aircraft for reconnaissance, to ensure deployment of appropriate fire resources.

(3)(a) The department must report to the legislature on its progress in developing and implementing the forest health and wildfire management strategic plan by December 31, 2016, and December 31, 2017. The report must include relevant fiscal information and recommendations for any legislative action needed to execute the strategic plan.

(b) The department must report to the legislature on the final forest health and wildfire management strategic plan by December 31, 2018, and every two years thereafter in conjunction with its budget request process under chapter 43.88 RCW. Each report must include, at minimum, the following:

(i) Descriptions of specific forest health or resiliency and wildfire management projects planned or underway at the time of reporting, including partners, timelines, resources required, and fiscal information associated with each project;

(ii) A summary of projects identified in the previous version of the strategic plan that have since been completed;

(iii) A summary of updates made to the previous version of the strategic plan and reasons for those updates;

(iv) Other significant achievements related to forest health and wildfire management not already included in the strategic plan; and

(v) Significant barriers to attaining specific goals in the strategic plan, if any, and recommendations for any legislative action to address those barriers.

**Sec.**  RCW 70.94.6536 and 1995 c 143 s 1 are each amended to read as follows:

SMOKE MANAGEMENT PLAN UPDATE.

(1)(a) The department of natural resources shall administer a program to reduce statewide emissions from silvicultural forest burning so as to achieve the following minimum objectives:

((~~(a)~~)) (i) Twenty percent reduction by December 31, 1994 providing a ceiling for emissions until December 31, 2000; and

((~~(b)~~)) (ii) Fifty percent reduction by December 31, 2000 providing a ceiling for emissions thereafter.

(b) Reductions shall be calculated from the average annual emissions level from calendar years 1985 to 1989, using the same methodology for both reduction and base year calculations.

(2)(a) The department of natural resources, within twelve months after May 15, 1991, shall develop a plan, based upon the existing smoke management agreement to carry out the programs as described in this section in the most efficient, cost-effective manner possible. The plan shall be developed in consultation with the department of ecology, public and private landowners engaged in silvicultural forest burning, and representatives of the public.

(b) The plan shall recognize the variations in silvicultural forest burning including, but not limited to, a landowner's responsibility to abate an extreme fire hazard under chapter 76.04 RCW and other objectives of burning, including abating and preventing a fire hazard, geographic region, climate, elevation and slope, proximity to populated areas, and diversity of land ownership. The plan shall establish priorities that the department of natural resources shall use to allocate allowable emissions, including but not limited to, silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas. The plan shall also recognize the real costs of the emissions program and recommend equitable fees to cover the costs of the program.

(c) The emission reductions in this section are to apply to all forest lands including those owned and managed by the United States. If the United States does not participate in implementing the plan, the departments of natural resources and ecology shall use all appropriate and available methods or enforcement powers to ensure participation.

(d) The plan shall include a tracking system designed to measure the degree of progress toward the emission reductions goals set in this section. The department of natural resources shall report annually to the department of ecology and the legislature on the status of the plan, emission reductions and progress toward meeting the objectives specified in this section, and the goals of this chapter and chapter 76.04 RCW.

(3)(a) Subject to the availability of amounts appropriated for this specific purpose, by December 31, 2018, the department of natural resources must, in consultation with the department of ecology, other relevant state and federal agencies, participating tribes, and public and private landowners engaged in silvicultural forest burning, update the smoke management plan developed under subsection (2) of this section. The purpose of the smoke management plan update is to encourage the continuation of silvicultural or forest land burning as an important resource management tool.

(b) The department of natural resources must update the smoke management plan through a science-based stakeholder process that balances forest health and public health interests. The department of natural resources must, at minimum, update or address provisions in the smoke management plan that:

(i) Identify communities most vulnerable to wildfire and prioritize prescribed burning and other appropriate resiliency treatments on lands surrounding those communities;

(ii) Raise the minimum threshold to be considered a large fire;

(iii) Provide longer range forecasts for permitted prescribed burns, including twenty-four hour and forty-eight hour forecasts;

(iv) Authorize individual prescribed burns twenty-four hours prior to ignition of the fire. Any burn decision made twenty-four hours in advance is subject to change if meteorological conditions or conditions affecting smoke dispersion are different from those anticipated and are forecast to contribute significantly to either an exceedance of an air quality standard or to a threat to public health or safety;

(v) Allow the department to authorize, by special burn permit, prescribed burning on days when the department would otherwise deny burning if the denial of such a permit would threaten imminent and substantial economic loss;

(vi) Clarify the criteria the department of natural resources considers when determining whether a burn "has the potential to affect communities" with respect to multiple day burns;

(vii) Increase utilization of multiple day burns and coordinate with prescribed burn managers with approved multiple day burn permits to ensure predictability and to maximize opportunities to burn on each day of the approved multiple day burn permit; and

(viii) The department of natural resources may not deny a prescribed burn solely on the potential for smoke intrusions into communities unless the smoke intrusion is forecast to contribute significantly to either an exceedance of an air quality standard or to a significant threat to public health or safety.

(c) The department of natural resources must adopt rules pursuant to chapter 34.05 RCW to implement the smoke management plan adopted under this section.

(d) The department of natural resources must report to the legislature on its progress in updating the smoke management plan, including summaries of meetings held, stakeholders included, public comments received, policies as they are updated, and relevant budget, expenditure, and fund source information by December 31, 2016, and December 31, 2017.

(4) If the December 31, 1994, emission reductions targets in this section are not met, the department of natural resources, in consultation with the department of ecology, shall use its authority granted in this chapter and chapter 76.04 RCW to immediately limit emissions from such burning to the 1994 target levels and limit silvicultural forest burning in subsequent years to achieve equal annual incremental reductions so as to achieve the December 31, 2000, target level. If, as a result of the program established in this section, the emission reductions are met in 1994, but are not met by December 31, 2000, the department of natural resources in consultation with the department of ecology shall immediately limit silvicultural forest burning to reduce emissions from such burning to the December 31, 2000, target level in all subsequent years.

((~~(4)~~)) (5) Emissions from silvicultural burning in eastern Washington that is conducted for the purpose of restoring forest health or preventing the additional deterioration of forest health are exempt from the reduction targets and calculations in this section if the following conditions are met:

(a) The landowner submits a written request to the department identifying the location of the proposed burning and the nature of the forest health problem to be corrected. The request shall include a brief description of alternatives to silvicultural burning and reasons why the landowner believes the alternatives not to be appropriate.

(b) The department determines that the proposed silvicultural burning operation is being conducted to restore forest health or prevent additional deterioration to forest health; meets the requirements of the state smoke management plan to protect public health, visibility, and the environment; and will not be conducted during an air pollution episode or during periods of impaired air quality in the vicinity of the proposed burn.

(c) Upon approval of the request by the department and before burning, the landowner is encouraged to notify the public in the vicinity of the burn of the general location and approximate time of ignition.

((~~(5)~~)) (6) The department of ecology may conduct a limited, seasonal ambient air quality monitoring program to measure the effects of forest health burning conducted under subsection ((~~(4)~~)) (5) of this section. The monitoring program may be developed in consultation with the department of natural resources, private and public forest landowners, academic experts in forest health issues, and the general public.

**Sec.**  RCW 70.94.6538 and 2009 c 118 s 502 are each amended to read as follows:

BURN PERMIT AUTHORITY.

The department of natural resources in granting burning permits for fires for the purposes set forth in RCW 70.94.6534 shall condition the issuance and use of such permits to comply with air quality standards established by the department of ecology after full consultation with the department of natural resources.(( ~~Such burning shall not cause the state air quality standards to be exceeded in the ambient air up to two thousand feet above ground level over critical areas designated by the department of ecology, otherwise subject to air pollution from other sources. Air quality standards shall be established and published by~~)) The department of ecology ((~~which shall~~)) must also establish a procedure for advising the department of natural resources when and where air contaminant levels exceed or threaten to exceed the ambient air standards over such critical areas. The air quality shall be quantitatively measured by the department of ecology or the appropriate local air pollution control authority at established monitoring stations over such designated areas. Further, such permitted burning shall not cause damage to public health or the environment. All permits issued under this section shall be subject to all applicable fees, permitting, penalty, and enforcement provisions of this chapter. The department of natural resources shall set forth smoke dispersal objectives designed consistent with this section to minimize any air pollution from such burning and the procedures necessary to meet those objectives.

The department of natural resources shall encourage more intense utilization in logging and alternative silviculture practices ((~~to reduce the need for burning~~)) and encourage thinning to reduce fuel loads and prescribed burning when appropriate for forest health improvement and fire prevention. The department of natural resources shall, whenever practical, encourage landowners to ((~~develop and~~)) use ((~~alternative acceptable~~)) effective and efficient disposal methods ((~~subject to the following priorities~~)), including the following: ((~~(1)~~)) Slash production minimization((~~, (2)~~)); slash utilization((~~, (3)~~)); nonburning disposal((~~, (4)~~)); and silvicultural burning. Such alternative methods shall be evaluated as to the relative impact on air, water, and land pollution, public health, and their financial feasibility.

The department of natural resources shall not issue burning permits and shall revoke previously issued permits at any time in any area where the department of ecology or local board has declared a stage of impaired air quality as defined in RCW 70.94.473.

**Sec.**  RCW 76.04.205 and 1986 c 100 s 17 are each amended to read as follows:

BURN PERMIT REVOCATION OR POSTPONEMENT.

(1) Except in certain areas designated by the department or as permitted under rules adopted by the department, a person shall have a valid written burning permit obtained from the department to burn:

(a) Any flammable material on any lands under the protection of the department; or

(b) Refuse or waste forest material on forest lands protected by the department.

(2) To be valid a permit must be signed by both the department and the permittee. Conditions may be imposed in the permit for the protection of life, property, or air quality and ((~~[the department]~~)) the department may suspend or revoke the permits when conditions warrant. A permit shall be effective only under the conditions and for the period stated therein. Signing of the permit shall indicate the permittee's agreement to and acceptance of the conditions of the permit.

(3) The department may inspect or cause to be inspected the area involved and may issue a burning permit if:

(a) All requirements relating to firefighting equipment, the work to be done, and precautions to be taken before commencing the burning have been met;

(b) No unreasonable danger will result; and

(c) Burning will be done in compliance with air quality standards established by chapter 70.94 RCW.

(4) The department, authorized employees thereof, or any warden or ranger may refuse, revoke, or postpone the use of ((~~permits~~)) a permit to burn only when necessary for the safety of adjacent property or when ((~~necessary in their judgment to prevent air pollution~~)) the particular burn at issue is forecast to contribute significantly to either an exceedance of an air quality standard as provided in chapter 70.94 RCW or to create a threat to public health or safety.

**Sec.**  RCW 76.04.315 and 1986 c 100 s 22 are each amended to read as follows:

BURN BAN AUTHORITY.

(1) In times and localities of unusual fire danger, the department may issue an order suspending any or all burning permits or privileges authorized by RCW 76.04.205 and may prohibit absolutely the use of fire in such locations.

(2) For the purposes of this section, "unusual fire danger" means adverse weather and fire fuel conditions, in combination with the prevalence of ignition sources, that indicate high potential over a large area for a fire to ignite, spread, and require suppression action.

NEW SECTION. **Sec.**  A new section is added to chapter 76.04 RCW to read as follows:

FEDERAL LAND MANAGEMENT COOPERATION.

(1) The legislature finds that over twenty-seven percent of Washington state lands are owned by federal agencies. The legislature further finds that increased coordination and improved communication between state and federal government agencies is necessary for effective forest health treatments and wildfire prevention and suppression activities.

(2) Subject to the availability of amounts appropriated for this specific purpose, the department must enter into discussions with the federal agencies managing land in the state with the objective of entering into or updating existing memoranda of understandings or contracts regarding forest health and wildfire management. The department must initiate these discussions with all relevant federal partners including, but not limited to, the United States forest service, the bureau of land management, the national park service, the United States fish and wildlife service, and the army corps of engineers. The department may consult with federally recognized tribes, forest landowners, and other entities involved in forest health treatment or wildfire prevention and suppression for the negotiations required by this section.

(3) The department must discuss, with the objective on agreeing to terms regarding, the following issue areas:

(a) Cost and labor-sharing agreements for forest health treatments conducted on federally owned lands;

(b) Timelines and measurable forest health improvement goals reachable within ten years of the date of agreement;

(c) Streamlining processes to share fire protection resources across jurisdictional lines; and

(d) Improving interagency cooperation to facilitate rapid initial response to fire. For example, the department may enter into an agreement with a federal partner to share in attacking wildfires along common ownership boundaries and exchange assistance free of charge across agency jurisdictions during the first twenty-four hours of a fire.

(4) By December 31, 2016, the department must report to the legislature on the following:

(a) All agreements with federal land management partners in place as of the effective date of this section;

(b) A log of efforts undertaken to enter into either new agreements or to update existing agreements as required by this section;

(c) Agreements entered into or updated as a result of those efforts listed under (b) of this subsection;

(d) Significant barriers, if any, to reaching consensus;

(e) Recommendations for any legislative action that will encourage intergovernmental cooperation; and

(f) Relevant fiscal information.

(5) For efficiency, the department may include the report required in this subsection as part of the report on the forest health and wildfire management strategic plan, also due on December 31, 2016, as required under section 202(3) of this act.

NEW SECTION. **Sec.**  JOINT FIREFIGHTER TRAINING AND THE NATIONAL GUARD. The legislature finds that training firefighters from different agencies together to the same national standards prepares firefighters to work together seamlessly once a wildland fire starts. Joint training also results in effective integration and deployment of assets, such as the national guard, when fire severity levels are high. The department of natural resources must strive to ensure adequate capacity of trained, effective firefighting forces across all available local, state, and federal agencies, tribes, and the private sector to meet state needs during each fire season. In addition, subject to the availability of amounts appropriated for this specific purpose, the national guard must coordinate with the department of natural resources to maintain trained firefighters to be deployed as needed during the fire season.

The legislature intends that not less than six hundred national guard personnel be maintained with training and fire suppression personal protective equipment and the legislature intends to provide appropriations to maintain this level of readiness.

NEW SECTION. **Sec.**  COORDINATED COMMAND FOR LARGE FIRES. The legislature finds that critical shortages in command personnel have resulted in delays in deploying needed resources, such as fire crews and equipment, during periods of high fire severity. Subject to the availability of amounts appropriated for this specific purpose, the department of natural resources must strive to ensure that adequately trained fire commanders are available to dispatch resources where they are needed most. To foster efficient year-round workforce management, the department of natural resources must, whenever practical, train existing department or local fire district personnel to fill such additional fire commander positions during the fire season.

NEW SECTION. **Sec.**  AERIAL ATTACK. The legislature finds that cost-efficient aerial resources are necessary to attack and suppress wildland fires before the fires spread and cause devastation to our land, ecosystem, and communities. Subject to the availability of amounts appropriated for this specific purpose, the department of natural resources must enter into ninety-day contracts for fixed-wing single engine air tankers for wildland fire suppression and strive to ensure sufficient fire aviation personnel, including operations managers and dispatchers, are available to coordinate and deploy aviation assets where they are most needed.

NEW SECTION. **Sec.**  A new section is added to chapter 76.04 RCW to read as follows:

MULTILINGUAL PRESCRIBED BURN NOTICES.

Prior to conducting a prescribed burn, the department is encouraged to notify the public in the vicinity of the burn of the general location, approximate time of ignition, and expected duration of the prescribed burn. The department may notify the public through written and verbal notices, press releases to local media, and social media. The department is further encouraged to give such notifications in a language that diverse residents can understand when a significant segment of the community speaks a language other than English and has limited proficiency in English.

NEW SECTION. **Sec.**  ACCOUNTING FOR FOREST HEALTH AND FIRE MANAGEMENT-RELATED APPROPRIATIONS. (1) By December 31, 2016, the department of natural resources must report to the legislature on how funds appropriated in the 2016 supplemental operating budget for use related to forest health and wildfire management were expended or are expected to be expended in 2017. In particular, the report must include an accounting of funds appropriated for the following purposes:

(a) An inventory of fire engines and other equipment provided to local fire districts under sections 301 and 302 of this act;

(b) A roster of firefighters and fire commanders trained under sections 208 and 209 of this act;

(c) A list of coordinated command staff and a demonstrable correlation between those staff and the commensurate expansion of wildland fire response capability. The list must include information showing the relevant certification or certifications each individual holds, each individual's primary geographic location, and, if trained under section 209 of this act, whether each individual was already employed by the department or a local fire district as of the effective date of this section;

(d) A list of department-owned or controlled aviation resources, including staff, available to the department during the 2015 fire season, a list of additional aviation resources, including staff, as of the time of reporting, and a demonstrable correlation between the additional equipment and staff and the commensurate expansion of aerial firefighting capability;

(e) An inventory of additional radios and radio-related equipment purchased and information on how and where the equipment was put into service;

(f) A log of fire prevention coordinators' interactions with landowners and communities about becoming firewise and reducing wildfire hazards;

(g) A log of fire technicians' interactions with local fire districts, other local entities, landowners, and individuals about coordinated wildland fire preparedness, response, and wildfire prevention actions; and

(h) Lists and maps of state, federal, tribal, and private lands treated to improve forest health and reduce wildfire hazards, including descriptions of the types of treatments applied, whether mechanical or prescribed burning, and a description of a program for ongoing monitoring and assessment of treatment effectiveness.

(2) For efficiency, the department of natural resources may include the report required in this section as part of the report on the forest health and wildfire management strategic plan, also due on December 31, 2016, as required under section 202(3) of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 38.52 RCW to read as follows:

MULTILINGUAL PUBLIC HEALTH AND SAFETY RISK NOTICES.

(1) State agencies required by law or rule to provide public notices to a community or area to advise or inform the public about an imminent or emergent public health, safety, or welfare risk are encouraged to provide notices in the language that diverse residents can understand when a significant segment of the community speaks a language other than English and has limited proficiency in English. Under a state of emergency, state agencies are encouraged to provide such notices, information, and services in the languages represented by the specific affected area's demographic data.

(2) During emergencies, political subdivisions' emergency management departments are encouraged to provide accurate written and verbal notices including, but not limited to, evacuation notices and shelter information, in the languages represented by their communities who speak a language other than English. Emergency management departments of political subdivisions are also encouraged to air public service announcements by radio or television broadcast in the languages represented by their communities who speak a language other than English.

**Sec.**  RCW 38.52.070 and 1997 c 49 s 4 are each amended to read as follows:

MULTILINGUAL EMERGENCY DISASTER COMMUNICATION.

(1) Each political subdivision of this state is hereby authorized and directed to establish a local organization or to be a member of a joint local organization for emergency management in accordance with the state comprehensive emergency management plan and program: PROVIDED, That a political subdivision proposing such establishment shall submit its plan and program for emergency management to the state director and secure his or her recommendations thereon, and verification of consistency with the state comprehensive emergency management plan, in order that the plan of the local organization for emergency management may be coordinated with the plan and program of the state. Local comprehensive emergency management plans must specify the use of the incident command system for multiagency/multijurisdiction operations. No political subdivision may be required to include in its plan provisions for the emergency evacuation or relocation of residents in anticipation of nuclear attack. If the director's recommendations are adverse to the plan as submitted, and, if the local organization does not agree to the director's recommendations for modification to the proposal, the matter shall be referred to the council for final action. The director may authorize two or more political subdivisions to join in the establishment and operation of a joint local organization for emergency management as circumstances may warrant, in which case each political subdivision shall contribute to the cost of emergency management upon such fair and equitable basis as may be determined upon by the executive heads of the constituent subdivisions. If in any case the executive heads cannot agree upon the proper division of cost the matter shall be referred to the council for arbitration and its decision shall be final. When two or more political subdivisions join in the establishment and operation of a joint local organization for emergency management each shall pay its share of the cost into a special pooled fund to be administered by the treasurer of the most populous subdivision, which fund shall be known as the . . . . . . emergency management fund. Each local organization or joint local organization for emergency management shall have a director who shall be appointed by the executive head of the political subdivision, and who shall have direct responsibility for the organization, administration, and operation of such local organization for emergency management, subject to the direction and control of such executive officer or officers. In the case of a joint local organization for emergency management, the director shall be appointed by the joint action of the executive heads of the constituent political subdivisions. Each local organization or joint local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of this chapter.

(2) In carrying out the provisions of this chapter each political subdivision, in which any disaster as described in RCW 38.52.020 occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance and communication to the victims of such disaster. Each political subdivision is authorized to exercise the powers vested under this section in the light of the exigencies of an extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements), including, but not limited to, budget law limitations, requirements of competitive bidding and publication of notices, provisions pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditures of public funds.

**PART 3**

**LOCAL FIRE MANAGEMENT**

NEW SECTION. **Sec.**  LOCAL FIRE EQUIPMENT. (1) The legislature finds that it is necessary to improve the initial attack capabilities of local fire districts to keep wildland fires small and to avoid the catastrophic large fire costs and impacts witnessed during the 2014 and 2015 fire seasons.

(2)(a) Subject to the availability of amounts appropriated for this specific purpose, the department of natural resources must determine where additional fire resources are needed and which local fire districts would most benefit from those additional resources. Fire resources may include, but are not limited to, fire engines, safety equipment, chainsaws, and radios.

(b) In making fire resource determinations under this section, the department of natural resources must, at minimum, consider the following factors:

(i) Geographic location, including whether the local fire district is located in a fire-prone area; and

(ii) Particular resource needs identified either by the department of natural resources or by the local fire district, based on a ten-year history of wildland fire activity in or near the local fire district's jurisdiction.

(3)(a) The legislature further finds that all communities at risk of damage from wildland fires should contribute to and be included in a local fire protection jurisdiction with capacity to provide wildland fire response services.

(b) Subject to the availability of amounts appropriated for this specific purpose, the department of natural resources must, in consultation with county assessor's offices, local fire districts, or other relevant public or private entities, identify fire-prone areas of the state that are not currently within any fire protection jurisdiction. By December 31, 2016, the department of natural resources must report to the appropriate fiscal and policy committees of the legislature and to relevant county commissioners identifying the location of those fire-prone areas lying outside any fire protection jurisdiction and providing recommendations on the extension of wildland fire services to those areas. The report must also identify any potentially negative consequences related to the failure to include the identified fire-prone areas in a fire protection district, including effects on prepositioning of wildland fire suppression resources and wildland fire suppression costs.

NEW SECTION. **Sec.**  A new section is added to chapter 76.04 RCW to read as follows:

PERSONAL PROTECTION GEAR FOR VOLUNTEERS.

(1) Subject to the availability of amounts appropriated for this specific purpose, the department must provide all necessary personal protection gear at no cost to each fire suppression volunteer for use while the volunteer is dispatched to wildland fire suppression duty. If the department cannot provide the personal protection gear, it must offer to reimburse any volunteer who purchases new equipment suitable for the kind of volunteer work to be performed. If the volunteer accepts reimbursement, the volunteer must surrender the equipment for which he or she was reimbursed when the volunteer period comes to an end.

(2) The department must ensure the inventory of personal protection gear for volunteers is kept in good condition through periodic safety inspections. The personal protection gear must be stored in a geographic area and manner for quick distribution to volunteers when needed for wildland fire suppression.

(3) For purposes of this section, "volunteers" means qualified individuals who are not affiliated with a fire department or district and who perform fire suppression activities for the department without any expectation of compensation. The department must require proof of adequate training and possession of valid incident qualifications, such as those commonly known as "red cards" or "blue cards" before allowing any volunteer to assist the department in fire suppression activities.

(4) Qualified volunteers identified in subsection (3) of this section may be dispatched to support wildland fire suppression efforts through the coordinated resource ordering systems of local or state firefighting organizations. Volunteers are prohibited from independently assigning themselves to wildfires without an official resource order.

(5) Nothing in this section prohibits the department from conducting condensed safety training on the site of a wildland fire in order to utilize available volunteers.

(6) No civil liability may be imposed by any court on the state or its officers and employees for any adverse impacts resulting from the training, equipping, or dispatching of volunteers under the provisions of this section except upon proof of gross negligence or willful or wanton misconduct.

NEW SECTION. **Sec.**  A new section is added to chapter 76.04 RCW to read as follows:

LOCAL WILDLAND FIRE SEVERITY ACCOUNT CREATED.

(1) The local wildland fire severity account is created in the state treasury. All moneys appropriated to the account by law must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used by the department consistent with this section and to provide funding for the implementation of section 304 of this act.

(2) All appropriations to the local wildland fire severity account are separate and in addition to all base wildfire suppression appropriations provided directly to the department.

(3) Every two years as part of its budget request process under chapter 43.88 RCW, the department must prepare a budget request for the local wildland fire severity account based on the demand on the account in recent biennia and the anticipated fire conditions for the requested biennium.

NEW SECTION. **Sec.**  A new section is added to chapter 76.04 RCW to read as follows:

LOCAL WILDLAND FIRE SEVERITY PROGRAM.

(1)(a) A local suppression entity that has satisfied the prerequisites established in this section may contact the department and request prepositioned fire suppression resources be provided in the jurisdiction of the requesting local suppression entity if a severity condition is declared for the area of request.

(b) For purposes of this section, "prepositioned fire suppression resources" means fire suppression-related resources either geographically positioned or contracted for prior to and in anticipation of wildland fire suppression activity during a fire season. Prepositioned fire suppression resources must meet department standards and requirements, and may include, but are not limited to, wildfire engines, heavy equipment, helicopters, single-engine air tankers, and personnel, such as hand crews, operators, pilots, and supervisors.

(2) The department may release assets requested under this section by a local suppression entity based on availability of assets and any applicable regionally coordinated priority for the placement of assets. Any requested aerial or specialized suppression assets may only be released within the context of an interagency regional coordination agreement.

(3) As a prerequisite to receiving resources under this section, a local suppression entity must establish agreements, prior to its funding request, with the department and, as applicable, with other local suppression entities and local fire suppression assets in the general vicinity of the requesting local suppression entity's jurisdiction. The purpose of these agreements is to ensure that the prepositioning of assets during severity conditions is well planned prior to the onset of the severity conditions and the release of assets.

(4)(a) The costs of fulfilling the requests of local suppression entities under this section must be incurred initially by the department out of its base wildfire suppression appropriation. The department may reimburse itself from the local wildland fire severity account created in section 303 of this act for the costs incurred fulfilling requests under this section within the same fiscal biennium of incurring the costs.

(b) If the costs incurred by the department under this section exceed the balance in the local wildland fire severity account, the department may continue to implement this section and may receive reimbursements for the costs incurred by subsequent supplemental legislative appropriations to the local wildland fire severity account.

(5) Nothing in this section creates or infers additional liability on the department, the state fire marshal, a local response entity, or a contractor of the department or a local response entity in any suppression efforts funded through the local wildland fire severity account or for the failure to fund suppression efforts.

(6) This section is subject to the availability of amounts appropriated for the specific purpose of this section.

NEW SECTION. **Sec.**  LOCAL WILDLAND FIRE SEVERITY REPORT. (1) Subject to the availability of amounts appropriated for this specific purpose, by October 31, 2018, the department of natural resources must present a report to the legislature, consistent with RCW 43.01.036, that summarizes the demand placed on the local wildland fire severity account and an estimate of a funding level for the local wildland fire severity account that would more accurately match the demand on the account.

(2) This section expires June 30, 2019.

**Sec.**  RCW 76.04.005 and 2015 c 182 s 7 are each reenacted and amended to read as follows:

DEFINITIONS.

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Additional fire hazard" means a condition existing on any land in the state:

(a) Covered wholly or in part by forest debris which is likely to further the spread of fire and thereby endanger life or property; or

(b) When, due to the effects of disturbance agents, broken, down, dead, or dying trees exist on forest land in sufficient quantity to be likely to further the spread of fire within areas covered by a forest health hazard warning or order issued by the commissioner of public lands under RCW 76.06.180. The term "additional fire hazard" does not include green trees or snags left standing in upland or riparian areas under the provisions of RCW 76.04.465 or chapter 76.09 RCW.

(2) "Closed season" means the period between April 15th and October 15th, unless the department designates different dates because of prevailing fire weather conditions.

(3) "Commissioner" means the commissioner of public lands.

(4) "Department" means the department of natural resources, or its authorized representatives, as defined in chapter 43.30 RCW.

(5) "Department protected lands" means all lands subject to the forest protection assessment under RCW 76.04.610 or covered under contract or agreement pursuant to RCW 76.04.135 by the department.

(6) "Disturbance agent" means those forces that damage or kill significant numbers of forest trees, such as insects, diseases, wind storms, ice storms, and fires.

(7) "Emergency fire costs" means those costs incurred or approved by the department for emergency forest fire suppression, including the employment of personnel, rental of equipment, and purchase of supplies over and above costs regularly budgeted and provided for nonemergency fire expenses for the biennium in which the costs occur.

(8) "Exploding target" means a device that is designed or marketed to ignite or explode when struck by firearm ammunition or other projectiles.

(9) "Forest debris" includes forest slash, chips, and any other vegetative residue resulting from activities on forest land.

(10) "Forest fire service" includes all wardens, rangers, and other persons employed especially for preventing or fighting forest fires.

(11) "Forest land" means any unimproved lands which have enough trees, standing or down, or flammable material, to constitute in the judgment of the department, a fire menace to life or property. Sagebrush and grass areas east of the summit of the Cascade mountains may be considered forest lands when such areas are adjacent to or intermingled with areas supporting tree growth. Forest land, for protection purposes, does not include structures.

(12) "Forest landowner," "owner of forest land," "landowner," or "owner" means the owner or the person in possession of any public or private forest land.

(13) "Forest material" means forest slash, chips, timber, standing or down, or other vegetation.

(14) "Incendiary ammunition" means ammunition that is designed to ignite or explode upon impact with or penetration of a target or designed to trace its course in the air with a trail of smoke, chemical incandescence, or fire.

(15) "Landowner operation" means every activity, and supporting activities, of a forest landowner and the landowner's agents, employees, or independent contractors or permittees in the management and use of forest land subject to the forest protection assessment under RCW 76.04.610 for the primary benefit of the owner. The term includes, but is not limited to, the growing and harvesting of forest products, the development of transportation systems, the utilization of minerals or other natural resources, and the clearing of land. The term does not include recreational and/or residential activities not associated with these enumerated activities.

(16) "Local fire suppression assets" means firefighting equipment that is located in close proximity to the wildland fire and that meets department standards and requirements.

(17) "Local wildland fire liaison" means the person appointed by the commissioner to serve as the local wildland fire liaison as provided in RCW 43.30.111.

(18) "Participating landowner" means an owner of forest land whose land is subject to the forest protection assessment under RCW 76.04.610.

(19) "Sky lantern" means an unmanned self-contained luminary device that uses heated air produced by an open flame or produced by another source to become or remain airborne.

(20) "Slash" means organic forest debris such as tree tops, limbs, brush, and other dead flammable material remaining on forest land as a result of a landowner operation.

(21) "Slash burning" means the planned and controlled burning of forest debris on forest lands by broadcast burning, underburning, pile burning, or other means, for the purposes of silviculture, hazard abatement, or reduction and prevention or elimination of a fire hazard.

(22) "Suppression" means all activities involved in the containment and control of forest fires, including the patrolling thereof until such fires are extinguished or considered by the department to pose no further threat to life or property.

(23) "Unimproved lands" means those lands that will support grass, brush and tree growth, or other flammable material when such lands are not cleared or cultivated and, in the opinion of the department, are a fire menace to life and property.

(24) "Local suppression entity" means a city, county, fire department, fire district, or other nonstate, nonfederal public entity responsible for suppressing wildland fires within its jurisdiction.

(25) "Local wildland fire severity account" means the account created in section 303 of this act to assist in funding immediate, local suppression efforts.

(26) "Severity conditions" has the same meaning as defined in RCW 43.43.960.

**Sec.**  RCW 43.43.960 and 2015 c 181 s 2 are each reenacted and amended to read as follows:

DEFINITIONS.

((~~Unless the context clearly requires otherwise,~~)) The definitions in this section apply throughout this subchapter unless the context clearly requires otherwise.

(1) "All risk resources" means those resources regularly provided by fire departments, fire districts, and regional fire protection service authorities required to respond to natural or man-made incidents, including but not limited to:

(a) Wild land fires;

(b) Landslides;

(c) Earthquakes;

(d) Floods; and

(e) Contagious diseases.

(2) "Chief" means the chief of the Washington state patrol.

(3) "Fire chief" includes the chief officer of a statutorily authorized fire agency, or the fire chief's authorized representative. Also included are the department of natural resources fire control chief, and the department of natural resources regional managers.

(4) "Jurisdiction" means state, county, city, fire district, regional fire protection service authority, or port district units, or other units covered by this chapter.

(5)(a) "Mobilization" means that all risk resources regularly provided by fire departments, fire districts, and regional fire protection service authorities beyond those available through existing agreements will be requested and, when available, sent in response to an emergency or disaster situation that has exceeded the capabilities of available local resources. During a large scale emergency, mobilization includes the redistribution of regional or statewide risk resources to either direct emergency incident assignments or to assignment in communities where resources are needed. Fire department resources may not be mobilized to assist law enforcement with police activities during a civil protest or demonstration, however, fire departments, fire districts, and regional fire protection service authorities are not restricted from providing medical care or aid and firefighting when mobilized for any purpose.

(b) When mobilization is declared and authorized as provided in this chapter, all risk resources regularly provided by fire departments, fire districts, and regional fire protection service authorities including those of the host fire protection authorities, i.e. incident jurisdiction, shall be deemed as mobilized under this chapter, including those that responded earlier under existing mutual aid or other agreement. All nonhost fire protection authorities providing resources in response to a mobilization declaration shall be eligible for expense reimbursement as provided by this chapter from the time of the mobilization declaration.

(c) This chapter shall not reduce or suspend the authority or responsibility of the department of natural resources under chapter 76.04 RCW.

(6) "Mutual aid" means emergency interagency assistance provided without compensation under an agreement between jurisdictions under chapter 39.34 RCW.

(7) "Severity conditions" means that the conditions in a region of the state indicate a high level of wildfire risk as indicated by official actions, such as the declaration of a red flag warning, of the issuance of a high wildfire probability by a state or federal wildland fire organization.

(8) "State fire marshal" means the director of fire protection in the Washington state patrol.

**Sec.**  RCW 43.43.960 and 2003 c 405 s 1 are each amended to read as follows:

((~~Unless the context clearly requires otherwise,~~)) The definitions in this section apply throughout this subchapter unless the context clearly requires otherwise.

(1) "Chief" means the chief of the Washington state patrol.

(2) "State fire marshal" means the director of fire protection in the Washington state patrol.

(3) "Fire chief" includes the chief officer of a statutorily authorized fire agency, or the fire chief's authorized representative. Also included are the department of natural resources fire control chief, and the department of natural resources regional managers.

(4) "Jurisdiction" means state, county, city, fire district, or port district firefighting units, or other units covered by this chapter.

(5)(a) "Mobilization" means that firefighting resources beyond those available through existing agreements will be requested and, when available, sent in response to an emergency or disaster situation that has exceeded the capabilities of available local resources. During a large scale emergency, mobilization includes the redistribution of regional or statewide firefighting resources to either direct emergency incident assignments or to assignment in communities where firefighting resources are needed.

(b) When mobilization is declared and authorized as provided in this chapter, all firefighting resources including those of the host fire protection authorities, i.e. incident jurisdiction, shall be deemed as mobilized under this chapter, including those that responded earlier under existing mutual aid or other agreement. All nonhost fire protection authorities providing firefighting resources in response to a mobilization declaration shall be eligible for expense reimbursement as provided by this chapter from the time of the mobilization declaration.

(c) This chapter shall not reduce or suspend the authority or responsibility of the department of natural resources under chapter 76.04 RCW.

(6) "Mutual aid" means emergency interagency assistance provided without compensation under an agreement between jurisdictions under chapter 39.34 RCW.

(7) "Severity conditions" means that the conditions in a region of the state indicate a high level of wildfire risk as indicated by official actions, such as the declaration of a red flag warning, of the issuance of a high wildfire probability by a state or federal wildland fire organization.

**Sec.**  RCW 43.43.961 and 2015 c 181 s 3 are each amended to read as follows:

PREPOSITIONING ASSETS DURING SEVERITY CONDITIONS.

(1)(a) Because of the possibility of the occurrence of disastrous fires or other disasters of unprecedented size and destructiveness, the need to ((~~insure~~)) ensure that the state is adequately prepared to respond to such a fire or disaster, the need to establish a mechanism and a procedure to provide for reimbursement to state agencies and local agencies that respond to help others in time of need or to a host fire district that experiences expenses beyond the resources of the fire district, the need to allow the prepositioning of wildland fire suppression assets during severity conditions, and generally to protect the public peace, health, safety, lives, and property of the people of Washington, it is hereby declared necessary to:

((~~(1)~~)) (i) Provide the policy and organizational structure for large scale mobilization of all risk resources in the state through creation of the Washington state fire services mobilization plan;

((~~(2)~~)) (ii) Confer upon the chief the powers provided herein;

((~~(3)~~)) (iii) Provide a means for reimbursement to state agencies and local fire jurisdictions that incur expenses when mobilized by the chief under the Washington state fire services mobilization plan and when prepositioning assets during severity conditions; and

((~~(4)~~)) (iv) Provide for reimbursement of the host fire department or fire protection district when it has: ((~~(a)~~))

(A) Exhausted all of its resources; and ((~~(b)~~))

(B) Invoked its local mutual aid network and exhausted those resources.

(b) Upon implementation of state fire mobilization, the host district resources shall become state fire mobilization resources consistent with the fire mobilization plan.

(2) It is the intent of the legislature that mutual aid and other interlocal agreements providing for enhanced emergency response be encouraged as essential to the public peace, safety, health, and welfare, and for the protection of the lives and property of the people of the state of Washington. If possible, mutual aid agreements should be without stated limitations as to resources available, time, or area. Nothing in this chapter shall be construed or interpreted to limit the eligibility of any nonhost fire protection authority for reimbursement of expenses incurred in providing all risk resources for mobilization provided that the mobilization must meet the requirements identified in the Washington state fire service mobilization plan.

**Sec.**  RCW 43.43.961 and 2003 c 405 s 2 are each amended to read as follows:

PREPOSITIONING ASSETS DURING SEVERITY CONDITIONS.

(1)(a) Because of the possibility of the occurrence of disastrous fires or other disasters of unprecedented size and destructiveness, the need to ((~~insure~~)) ensure that the state is adequately prepared to respond to such a fire or disaster, the need to establish a mechanism and a procedure to provide for reimbursement to state agencies and local firefighting agencies that respond to help others in time of need or to a host fire district that experiences expenses beyond the resources of the fire district, the need to allow the prepositioning of wildland fire suppression assets during severity conditions, and generally to protect the public peace, health, safety, lives, and property of the people of Washington, it is hereby declared necessary to:

((~~(1)~~)) (i) Provide the policy and organizational structure for large scale mobilization of firefighting resources in the state through creation of the Washington state fire services mobilization plan;

((~~(2)~~)) (ii) Confer upon the chief the powers provided herein;

((~~(3)~~)) (iii) Provide a means for reimbursement to state agencies and local fire jurisdictions that incur expenses when mobilized by the chief under the Washington state fire services mobilization plan and when prepositioning assets during severity conditions; and

((~~(4)~~)) (iv) Provide for reimbursement of the host fire department or fire protection district when it has: ((~~(a)~~))

(A) Exhausted all of its resources; and ((~~(b)~~))

(B) Invoked its local mutual aid network and exhausted those resources. Upon implementation of state fire mobilization, the host district resources shall become state fire mobilization resources consistent with the fire mobilization plan.

(2) It is the intent of the legislature that mutual aid and other interlocal agreements providing for enhanced emergency response be encouraged as essential to the public peace, safety, health, and welfare, and for the protection of the lives and property of the people of the state of Washington. If possible, mutual aid agreements should be without stated limitations as to resources available, time, or area. Nothing in this chapter shall be construed or interpreted to limit the eligibility of any nonhost fire protection authority for reimbursement of expenses incurred in providing firefighting resources for mobilization.

**Sec.**  RCW 43.43.962 and 2010 1st sp.s. c 7 s 47 are each amended to read as follows:

FIRE SERVICES MOBILIZATION PLAN.

(1)(a) The director of fire protection shall review and make recommendations to the chief on the refinement and maintenance of the Washington state fire services mobilization plan, which shall include the procedures to be used during fire and other emergencies for coordinating local, regional, and state fire jurisdiction resources and the procedures for arranging prepositioning of resources during severity conditions. In carrying out this duty, the director of fire protection shall consult with and solicit recommendations from representatives of state and local fire and emergency management organizations, regional fire defense boards, and the department of natural resources.

(b) The Washington state fire services mobilization plan shall be consistent with, and made part of, the Washington state comprehensive emergency management plan. The chief shall review the fire services mobilization plan as submitted by the director of fire protection, recommend changes that may be necessary, and approve the fire services mobilization plan for inclusion within the state comprehensive emergency management plan.

(2) It is the responsibility of the chief to mobilize jurisdictions under the Washington state fire services mobilization plan. The state fire marshal shall serve as the state fire resources coordinator when the Washington state fire services mobilization plan is mobilized.

**Sec.**  RCW 43.88.550 and 1989 c 362 s 3 are each amended to read as follows:

FIRE SUPPRESSION EXPENSES.

(1) Based on schedules submitted by the director of financial management, the state treasurer shall transfer from the general fund—state, or such other funds as the state treasurer deems appropriate, to the Clarke-McNary fund such amounts as are necessary to meet unbudgeted forest firefighting expenses, including expenses incurred from the implementation of section 304 of this act.

(2) All amounts borrowed under the authority of this section shall be repaid to the appropriate fund, together with interest at a rate determined by the state treasurer to be equivalent to the return on investments of the state treasury during the period the amounts are borrowed.

NEW SECTION. **Sec.**  SURVEY TO IDENTIFY RESILIENCY TREATMENTS NEAR VULNERABLE COMMUNITIES. (1) Subject to the availability of amounts appropriated for this specific purpose, the department of natural resources must identify:

(a) Communities that are particularly vulnerable during the wildfire season; and

(b) Lands surrounding the communities identified in (a) of this subsection with forest health conditions that would benefit from forest health or resiliency treatment.

(2) By December 31, 2016, the department of natural resources must report to the legislature on its findings, including a list of the communities identified under subsection (1)(a) of this section, and a list of the lands identified under subsection (1)(b) of this section, organized according to the following elements:

(a) Whether the land is state land, under the department's fire protection, or all other land; and

(b) Within each category listed in (a) of this subsection, by the ease or level of investment needed to apply necessary forest health or resiliency treatment, including a description of which treatment or treatments are necessary and particular geographic or other challenges to treating a specific area, if any.

(3) The report required in subsection (2) of this section must include an actionable plan to treat all land identified under subsection (1)(b) of this section, including timelines, and identify additional actions that may be required prior to treatment, such as entering cost-sharing and landowner maintenance agreements with private landowners. The report must also include recommendations for additional resources or legislative action needed to complete forest health or resiliency treatments identified under subsection (2)(b) of this section. For efficiency, the department may include the report required in this section as part of the report on the forest health and wildfire management strategic plan, also due on December 31, 2016, as required under section 202(3) of this act.

NEW SECTION. **Sec.**  EXPIRATION DATE. Sections 307 and 309 of this act expire July 1, 2019.

NEW SECTION. **Sec.**  EFFECTIVE DATE. Sections 308 and 310 of this act take effect July 1, 2019.

**PART 4**

**DEPARTMENT OF NATURAL RESOURCES PROGRAMS**

NEW SECTION. **Sec.**  A new section is added to chapter 76.04 RCW to read as follows:

PRESCRIBED BURN MANAGER CERTIFICATION PROGRAM CREATED.

(1) Subject to the availability of amounts appropriated for this specific purpose, the department must create a prescribed burn manager certification program for those who practice prescribed burning in the state. The certification program must include training on all relevant aspects of prescribed fire in Washington including, but not limited to, the following: Legal requirements; safety; weather; fire behavior; smoke management; prescribed fire techniques; public relations; planning; and contingencies.

(2) The department may not require certification under the program created under subsection (1) of this section for burn permit approval under this chapter. Nothing in this section may be construed as creating a mandatory prescribed burn manager certification requirement to conduct prescribed burning in Washington.

(3) No civil or criminal liability may be imposed by any court on the state or its officers and employees, or a prescribed burn manager certified under the program created under subsection (1) of this section, for any direct or proximate adverse impacts resulting from a prescribed fire conducted under the provisions of this chapter except upon proof of gross negligence or willful or wanton misconduct.

(4) The department may adopt rules to create the prescribed burn manager certification program and to set periodic renewal criteria. The department may also adopt rules to establish a decertification process for certified prescribed burn managers who commit a violation under this chapter or rules adopted under this chapter. The department may, in its own discretion, develop an equivalency test for experienced prescribed burn managers.

NEW SECTION. **Sec.**  PUBLIC EDUCATION RELATED TO PROTECTING STRUCTURES FROM FIRE. (1) The legislature finds that the record 2015 fire season saw over one million acres burned across the state. The legislature further finds that in addition to the devastating effect on our land and economy, wildfires destroyed four hundred ninety-nine structures, including three hundred seven primary residences, twenty-one commercial structures, and one hundred seventy-seven outbuildings. The legislature finds that the state must employ the best firefighting techniques, products, and technologies to prevent the unnecessary destruction of structures during future wildfire incidents. Last, the legislature finds that educating home and business owners on how they may safely protect their structures from encroaching wildfire is in the best interest of the state and fire-prone communities.

(2)(a) Subject to the availability of amounts appropriated for this specific purpose, by July 1, 2016, the department of natural resources must create and distribute educational material regarding foams, gels, and other products designed to protect structures from encroaching wildfires by direct mailer to homeowners in communities located in fire-prone areas of the state. The department must also create and maintain a web page on its web site regarding the availability, benefits, and other information about foams, gels, and other products designed to protect structures from encroaching wildfires. The department may coordinate with other entities involved in fire suppression activities, including local fire districts, to carry out the activities required in this section.

(b) Nothing in this subsection creates or infers additional liability on the department or any other entity coordinating with the department to carry out this section. Nothing in this section prevents the department from omitting products the department determines are likely impractical for homeowners in the Washington fire landscape from educational materials or the web site required by this section. No educational material distributed or made available by the department may be construed as an endorsement of any product type or specific commercial product.

(3) Subject to the availability of amounts appropriated for this specific purpose, the department of natural resources must expand its programs to provide wildfire prevention education, community outreach programs, and technical assistance to landowners. The department of natural resources must also strive to ensure landowner compliance with grant and contract requirements with respect to forest health, resiliency, or fuels reduction treatments, burn permit conditions, and industrial fire precaution levels.

NEW SECTION. **Sec.**  FOREST RESILIENCY BURNING PILOT PROJECT CREATED. (1) Subject to the availability of amounts appropriated for this specific purpose, the department of natural resources must conduct a forest resiliency burning pilot project. The goal of the pilot project is to monitor and evaluate the benefits of forest resiliency burning and the impacts on ambient air quality. The department of natural resources is responsible for establishing the processes and procedures necessary to administer the pilot project, including the review and approval of qualifying forest resiliency burning proposals. The department of natural resources may consider forest resiliency burning proposals that include treatments to reduce fuel loads prior to burning, including the thinning of forest stands and grazing to clear brush.

(2)(a) The department of natural resources must, as the primary focus of the pilot project, arrange with interested third parties to perform forest resiliency burning on land prone to forest or wildland fires in coordination with the following forest health collaboratives as recognized by the United States forest service:

(i) North Central Washington forest health collaborative;

(ii) Northeast Washington forestry collaborative; and

(iii) Tapash sustainable forest collaborative.

(b) The department of natural resources must also coordinate with at least one organized group of public agencies and interested stakeholders whose purpose is to protect, conserve, and expand the safe and responsible use of prescribed fire on the Washington landscape.

(3)(a) The department of natural resources must, as part of the pilot project, approve single day or multiple day forest resiliency burns if the burning is unlikely to significantly contribute to an exceedance of air quality standards established by chapter 70.94 RCW. Once approved, forest resiliency burns spanning multiple days may only be revoked or postponed midway through the duration of the approved burn if necessary for the safety of adjacent property or upon a determination by the department of natural resources or the department of ecology that the burn has significantly contributed to an exceedance of air quality standards under chapter 70.94 RCW.

(b) The department of natural resources must approve burns at least twenty-four hours prior to ignition of the fire.

(4) Forest resiliency burning, when conducted under the pilot project authorized by this section, is not subject to the outdoor burning restrictions in RCW 70.94.6512(2) and 70.94.6514.

(5) The implementation of the pilot project authorized in this section is not:

(a) Intended to require the department of natural resources to update the smoke management plan defined in RCW 70.94.6536. However, information obtained through the pilot project's implementation may be used to inform any future updates to the smoke management plan; and

(b) Subject to the provisions of chapter 43.21C RCW.

(6) Forest resiliency burning, and the implementation of the pilot project authorized in this section, must not be conducted at a scale that would require a revision to the state implementation plan under the federal clean air act.

(7) By December 31, 2017, the department of natural resources must submit a report to the legislature, consistent with RCW 43.01.036. The report must include information and analyses regarding the following elements:

(a) The amount of forest resiliency burns proposed, approved, and conducted;

(b) Air pollution levels in areas where forest resiliency burns have been approved, both before and after the burn;

(c) The quantity and severity of air quality exceedances by pollutant type;

(d) A comparative analysis between the predicted smoke conditions and the actual smoke conditions observed on location by qualified meteorological personnel or trained prescribed burning professionals during the forest resiliency burn; and

(e) Recommendations relating to continuing or expanding forest resiliency burning and creating forest resiliency burning as a new type of outdoor burning permitted by the department of natural resources.

(8) The report to the legislature required by this section may include recommendations for the updating of the smoke management plan defined in RCW 70.94.6536. For efficiency, the department of natural resources may include the report required in this section as part of the report on the smoke management plan update, also due on December 31, 2017, as required under RCW 70.94.6536(3).

(9) For the purposes of this section, "forest resiliency burning" means silvicultural burning carried out under the supervision of qualified silvicultural, ecological, or fire management professionals and used to improve fire dependent ecosystems, mitigate wildfire potential, decrease forest susceptibility to forest insect or disease as defined in RCW 76.06.020, or otherwise enhance forest resiliency to fire.

(10) This section expires July 1, 2018.

**PART 5**

**VOLUNTEER FIREFIGHTERS**

NEW SECTION. **Sec.**  LEGISLATIVE FINDINGS. Volunteer and part-time emergency personnel are sometimes called upon to serve extended engagements assisting with emergencies too large for one fire or police agency to handle. Under current law, if those volunteers and part-time personnel work more than a defined number of hours, they may be required to switch retirement systems. The legislature finds that this requirement can be detrimental to the benefits of many, but not all, of these personnel.

Therefore, the legislature intends that when members of the volunteer firefighters' and reserve officers' retirement plan in chapter 41.24 RCW exceed the hours needed for the position to become an eligible position as defined in RCW 41.40.010(11) due to service in a large-scale state emergency, the affected individuals shall have a ninety-day window from the eligibility date or the end of the emergency, whichever comes last, to choose whether to join the public employees' retirement system or remain with the volunteer firefighters' and reserve officers' retirement plan.

The legislature further intends that members who do choose to join the public employees' retirement system will be subject to all the same plan choice and default provisions to which any new member of that system is subject.

NEW SECTION. **Sec.**  RECOMMENDATIONS AND COORDINATED RULE MAKING REQUIRED. Due to the complexity of enacting section 503 of this act, the department of retirement systems and board for volunteer firefighters and reserve officers are instructed to do the following by January 1, 2017:

(1) Jointly submit to the chair and vice chair of the house of representatives and senate fiscal committees a report detailing any additional statutory changes needed to effectively carry out the intent of section 503 of this act; and

(2) Work together to establish coordinated rules for their respective retirement systems to effectively carry out the intent of section 503 of this act in a manner consistent with applicable federal law.

**Sec.**  RCW 41.40.023 and 2010 c 80 s 1 are each amended to read as follows:

OPTION TO APPLY FOR RETIREMENT SYSTEM MEMBERSHIP CREATED.

Membership in the retirement system shall consist of all regularly compensated employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

(1) Persons in ineligible positions;

(2) Employees of the legislature except the officers thereof elected by the members of the senate and the house and legislative committees, unless membership of such employees be authorized by the said committee;

(3)(a) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: AND PROVIDED FURTHER, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(b) A member holding elective office who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file, on a form supplied by the department, a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official. A member who receives more than fifteen thousand dollars per year in compensation for his or her elective service, adjusted annually for inflation by the director, is not eligible for the option provided by this subsection (3)(b);

(4) Employees holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan except as follows:

(a) In any case where the retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, such an employee shall be allowed membership rights should the agreement so provide;

(b) An employee shall be allowed membership if otherwise eligible while receiving survivor's benefits;

(c) An employee shall not either before or after June 7, 1984, be excluded from membership or denied service credit pursuant to this subsection solely on account of: (i) Membership in the plan created under chapter 2.14 RCW; or (ii) enrollment under the relief and compensation provisions or the pension provisions of the volunteer firefighters' relief and pension fund under chapter 41.24 RCW;

(d) Except as provided in RCW 41.40.109, on or after July 25, 1999, an employee shall not be excluded from membership or denied service credit pursuant to this subsection solely on account of participation in a defined contribution pension plan qualified under section 401 of the internal revenue code;

(e) Employees who have been reported in the retirement system prior to July 25, 1999, and who participated during the same period of time in a defined contribution pension plan qualified under section 401 of the internal revenue code and operated wholly or in part by the employer, shall not be excluded from previous retirement system membership and service credit on account of such participation;

(5) Patient and inmate help in state charitable, penal, and correctional institutions;

(6) "Members" of a state veterans' home or state soldiers' home;

(7) Persons employed by an institution of higher learning or community college, primarily as an incident to and in furtherance of their education or training, or the education or training of a spouse;

(8) Employees of an institution of higher learning or community college during the period of service necessary to establish eligibility for membership in the retirement plans operated by such institutions;

(9) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession;

(10) Persons appointed after April 1, 1963, by the liquor ((~~control~~)) and cannabis board as contract liquor store managers;

(11) Employees of a labor guild, association, or organization: PROVIDED, That elective officials and employees of a labor guild, association, or organization which qualifies as an employer within this chapter shall have the option of applying for membership;

(12) Retirement system retirees: PROVIDED, That following reemployment in an eligible position, a retiree may elect to prospectively become a member of the retirement system if otherwise eligible;

(13) Persons employed by or appointed or elected as an official of a first class city that has its own retirement system: PROVIDED, That any member elected or appointed to an elective office on or after April 1, 1971, shall have the option of continuing as a member of this system in lieu of becoming a member of the city system. A member who elects to continue as a member of this system shall pay the appropriate member contributions and the city shall pay the employer contributions at the rates prescribed by this chapter. The city shall also transfer to this system all of such member's accumulated contributions together with such further amounts as necessary to equal all employee and employer contributions which would have been paid into this system on account of such service with the city and thereupon the member shall be granted credit for all such service. Any city that becomes an employer as defined in RCW 41.40.010(13) as the result of an individual's election under this subsection shall not be required to have all employees covered for retirement under the provisions of this chapter. Nothing in this subsection shall prohibit a city of the first class with its own retirement system from: (a) Transferring all of its current employees to the retirement system established under this chapter, or (b) allowing newly hired employees the option of continuing coverage under the retirement system established by this chapter.

Notwithstanding any other provision of this chapter, persons transferring from employment with a first class city of over four hundred thousand population that has its own retirement system to employment with the state department of agriculture may elect to remain within the retirement system of such city and the state shall pay the employer contributions for such persons at like rates as prescribed for employers of other members of such system;

(14) Employees who (a) are not citizens of the United States, (b) do not reside in the United States, and (c) perform duties outside of the United States;

(15) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position;

(16) Employees who are citizens of the United States and who reside and perform duties for an employer outside of the United States: PROVIDED, That unless otherwise excluded under this chapter or chapter 41.04 RCW, the employee may apply for membership (a) within thirty days after employment in an eligible position and membership service credit shall be granted from the first day of membership service, and (b) after this thirty-day period, but membership service credit shall be granted only if payment is made for the noncredited membership service under RCW 41.50.165(2), otherwise service shall be from the date of application;

(17) The city manager or chief administrative officer of a city or town, other than a retiree, who serves at the pleasure of an appointing authority: PROVIDED, That such persons shall have the option of applying for membership within thirty days from date of their appointment to such positions. Persons serving in such positions as of April 4, 1986, shall continue to be members in the retirement system unless they notify the director in writing prior to December 31, 1986, of their desire to withdraw from membership in the retirement system. A member who withdraws from membership in the system under this section shall receive a refund of the member's accumulated contributions.

Persons serving in such positions who have not opted for membership within the specified thirty days, may do so by paying the amount required under RCW 41.50.165(2) for the period from the date of their appointment to the date of acceptance into membership;

(18) Persons serving as: (a) The chief administrative officer of a public utility district as defined in RCW 54.16.100; (b) the chief administrative officer of a port district formed under chapter 53.04 RCW; or (c) the chief administrative officer of a county who serves at the pleasure of an appointing authority: PROVIDED, That such persons shall have the option of applying for membership within thirty days from the date of their appointment to such positions. Persons serving in such positions as of July 25, 1999, shall continue to be members in the retirement system unless they notify the director in writing prior to December 31, 1999, of their desire to withdraw from membership in the retirement system. A member who withdraws from membership in the system under this section shall receive a refund of the member's accumulated contributions upon termination of employment or as otherwise consistent with the plan's tax qualification status as defined in internal revenue code section 401.

Persons serving in such positions who have not opted for membership within the specified thirty days, may do so at a later date by paying the amount required under RCW 41.50.165(2) for the period from the date of their appointment to the date of acceptance into membership;

(19) Persons enrolled in state-approved apprenticeship programs, authorized under chapter 49.04 RCW, and who are employed by local governments to earn hours to complete such apprenticeship programs, if the employee is a member of a union-sponsored retirement plan and is making contributions to such a retirement plan or if the employee is a member of a Taft-Hartley retirement plan;

(20) Beginning on July 22, 2001, persons employed exclusively as trainers or trainees in resident apprentice training programs operated by housing authorities authorized under chapter 35.82 RCW, (a) if the trainer or trainee is a member of a union-sponsored retirement plan and is making contributions to such a retirement plan or (b) if the employee is a member of a Taft-Hartley retirement plan;

(21) Employees who are removed from membership under RCW 41.40.823 or 41.40.633; ((~~and~~))

(22) Persons employed as the state director of fire protection under RCW 43.43.938 who were previously members of the law enforcement officers' and firefighters' retirement system plan 2 under chapter 41.26 RCW may continue as a member of the law enforcement officers' and firefighters' retirement system in lieu of becoming a member of this system; and

(23) Any enrolled member of the relief and compensation provisions or the pension provisions of the volunteer firefighters' and reserve officers' relief and pension principal fund under chapter 41.24 RCW whose position becomes eligible under this chapter due to service rendered at a large-scale emergency that exhausts all local resources and requires the response of the state and/or federal resources. Such a person shall have the option of applying for membership within ninety days of (a) the position becoming eligible, or (b) the termination of the large-scale emergency, whichever comes later.

NEW SECTION. **Sec.**  Section 503 of this act takes effect July 1, 2017.

**PART 6**

**IMPLEMENTATION**

NEW SECTION. **Sec.**  This act may be known and cited as the wildfire management act.

NEW SECTION. **Sec.**  Except for sections 308, 310, and 503 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**