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HOUSE BILL 2596

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State of Washington

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2016 Regular Session

By Representatives Dye, Blake, Kretz, Tharinger, Short, Schmick, McCabe, Haler, Rossetti, Muri, Condotta, and Springer

Read first time 01/15/16. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to reducing the occurrences of small wildland  
2 fires escalating into catastrophic fires through the creation of a  
3 mechanism to better equip local wildland fire suppression entities in  
4 their immediate, local suppression activities; amending RCW  
5 43.30.111; reenacting and amending RCW 76.04.005; adding new sections  
6 to chapter 76.04 RCW; and providing an expiration date.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 76.04  
9 RCW to read as follows:

10 (1) The local wildland fire response account is created in the  
11 state treasury. All moneys appropriated to the account by law and any  
12 applicable cost match payments made by a local suppression entity  
13 under section 2 of this act must be deposited in the account. Moneys  
14 in the account may be spent only after appropriation. Expenditures  
15 from the account may only be used by the department consistent with  
16 this section and to provide funding for immediate, local wildland  
17 fire response consistent with section 2 of this act.

18 (2) In each biennium, up to five percent of the expenditures from  
19 the local wildland fire response account may be used for  
20 administrative expenses of the department in implementing section 2  
21 of this act.

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

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 76.04  
7 RCW to read as follows:

8 (1) A local suppression entity may, upon confirmation of the  
9 start of a wildland fire within its jurisdiction or area of response,  
10 submit a request to the department for an expenditure from the local  
11 wildland fire response account to fund an immediate local suppression  
12 effort. The department must accept the confirmation provided by the  
13 local suppression entity and must implement the provisions of this  
14 section without first independently confirming the reported start of  
15 the wildland fire.

16 (2) The department shall, consistent with this section and upon  
17 request by a local suppression entity for an expenditure from the  
18 local wildland fire response account, take either or all of the  
19 following actions within thirty minutes of the request:

20 (a) Release the requested money, or as much of the requested  
21 money as is available, from the local wildland fire response account  
22 to the requesting local suppression entity to be used for immediate  
23 suppression efforts;

24 (b) Provide a guaranteed level of reimbursement, and a timeline  
25 for reimbursement, from the local wildland fire response account to  
26 the requesting local suppression entity for immediate suppression  
27 efforts initially funded by the local suppression entity;

28 (c) Release department-controlled suppression assets, including  
29 aerial assets, to the requesting local suppression entity to be used  
30 for immediate suppression efforts.

31 (3)(a) A local suppression entity that receives money,  
32 reimbursement, or assets under this section is responsible for  
33 matching ten percent of the value received from the local wildland  
34 fire response account unless the local suppression entity can confirm  
35 that their local suppression efforts completely contained the fire  
36 within six hours of receiving the support. There is no cost match  
37 requirement if the local response entity achieves the six-hour  
38 containment. In the event that the six-hour containment goal is not  
39 met, the measure of the local response entity's cost match

1 requirement is the value it received from the local wildland fire  
2 response account and not ten percent of the overall fire response  
3 cost incurred by the local response entity, the state government, the  
4 federal government, or any other response partners.

5 (b) Cost match payments by local suppression entities must be  
6 made to the department within one year of the receipt of support from  
7 the local wildland fire response account. All cost match payments  
8 received by the department must be deposited into the local wildland  
9 fire response account.

10 (c) In lieu of making payments to the department, a local  
11 response entity may contribute any cost match by using in-kind  
12 services, including the use of existing staff, equipment, and  
13 volunteers.

14 (d) The local wildland fire liaison may intervene as a mediator  
15 in the event of a disagreement between the department and a local  
16 response entity arising from the cost match requirements of this  
17 section.

18 (4) The department may reimburse itself from the local wildland  
19 fire response account for the costs of releasing department-  
20 controlled suppression assets under subsection (2) of this section.  
21 Any reimbursement for these purposes are not considered to be  
22 administrative expenses for the purposes of section 1 of this act.

23 (5)(a) The department is responsible for fulfilling the funding  
24 requests of local response entities under this section only as the  
25 account balance in the local wildland fire response account allows  
26 and nothing in this section guarantees the release of money or a  
27 reimbursement for a local response entity beyond the available  
28 account balance in the local wildland fire response account.

29 (b) A local response entity seeking certainty in funding or  
30 reimbursement under this section prior to initiating suppression  
31 activities under this chapter must first notify the department that  
32 it has confirmed the start of a wildland fire in its jurisdiction,  
33 its proposed suppression actions, and the estimated total costs.

34 (c) Upon a request for reimbursement by a local response entity,  
35 the department must make the local response entity aware of the  
36 balance in the local wildland fire response account, the likelihood  
37 of reimbursement being available, and the timeline for reimbursement.  
38 The department may assure reimbursement for up to two years following  
39 the suppression action if an assurance is appropriate given the  
40 anticipated future balance of the local wildland fire response

1 account and the details of the suppression action. The department  
2 must maintain, and is authorized to pay, reimbursements for  
3 suppression activities that occurred in a previous fiscal biennium.

4 (d) The department must keep all local suppression entities  
5 apprised of the balance of the local wildland fire response account  
6 and the money available for release or reimbursement during the  
7 closed season. This subsection (5)(d) must be satisfied by utilizing  
8 the least costly method, including maintaining the information on the  
9 department's internet web site or any other cost-effective method.

10 (6) Nothing in this section creates or infers additional  
11 liability on the department, a local response entity, or a contractor  
12 of the department or a local response entity in any suppression  
13 efforts funded through the local wildland fire response account or  
14 for the failure to fund suppression efforts.

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 76.04  
16 RCW to read as follows:

17 (1) The department must present a report to the legislature,  
18 consistent with RCW 43.01.036, by no later than October 31, 2018,  
19 that summarizes the demand placed on the local wildland fire response  
20 account, the instances of local suppression support funding being  
21 denied due to a lack of money in the local wildland fire response  
22 account, and an estimate of a funding level for the local wildland  
23 fire response account that would more accurately match the demand on  
24 the account.

25 (2) This section expires June 30, 2019.

26 **Sec. 4.** RCW 43.30.111 and 2015 c 182 s 1 are each amended to  
27 read as follows:

28 (1) The commissioner must appoint a local wildland fire liaison  
29 that reports directly to the commissioner or the supervisor and  
30 generally represents the interests and concerns of landowners and the  
31 general public during any fire suppression activities of the  
32 department.

33 (2) The role of the local wildland fire liaison is to provide  
34 advice to the commissioner on issues such as access to land during  
35 fire suppression activities, the availability of local fire  
36 suppression assets, environmental concerns, and landowner interests.

1       (3) The local wildland fire liaison may also serve as a mediator  
2 between the department and recipients of local fire suppression  
3 funding as provided in section 2 of this act.

4       (4) In appointing the local wildland fire liaison, the  
5 commissioner must consult with county legislative authorities either  
6 directly or through an organization that represents the interests of  
7 county legislative authorities.

8       (~~(4)~~) (5) All requirements in this section are subject to the  
9 availability of amounts appropriated for the specific purposes  
10 described.

11       **Sec. 5.** RCW 76.04.005 and 2015 c 182 s 7 are each reenacted and  
12 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (18) "Participating landowner" means an owner of forest land  
8 whose land is subject to the forest protection assessment under RCW  
9 76.04.610.

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

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

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

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

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

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

33 (25) "Local wildland fire response account" means the account  
34 created in section 1 of this act to assist in funding immediate,  
35 local suppression efforts.

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