
SENATE BILL 6347

State of Washington

64th Legislature

2016 Regular Session

By Senators Hobbs, Hargrove, and Conway

Read first time 01/18/16. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to forest fire prevention and suppression;
2 amending RCW 76.04.165, 76.04.167, 76.04.016, and 76.04.610;
3 reenacting and amending RCW 76.04.005; and providing an effective
4 date.

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

6 **Sec. 1.** RCW 76.04.005 and 2015 c 182 s 7 are each reenacted and
7 amended to read as follows:

8 ~~((As used in this chapter, the following terms have the meanings~~
9 ~~indicated))~~ The definitions in this section apply throughout this
10 chapter unless the context clearly requires otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (12) "Forest landowner," "owner of forestland," "landowner," or
34 "owner" means the owner or the person in possession of any public or
35 private forestland.

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

38 (14) "Incendiary ammunition" means ammunition that is designed to
39 ignite or explode upon impact with or penetration of a target or

1 designed to trace its course in the air with a trail of smoke,
2 chemical incandescence, or fire.

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

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

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

19 (18) "Participating landowner" means an owner of forestland whose
20 land is subject to the forest protection assessment under RCW
21 76.04.610.

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

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

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

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

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

1 shrub-steppe vegetation and forestlands devoted primarily to
2 production of livestock or agricultural commodities for commercial
3 purposes.

4 (b) "Unimproved lands" does not include improved lands.

5 (24) "Improved lands" means property on which a structure is
6 located but does not include roads, bridges, forestlands, or
7 unimproved lands.

8 **Sec. 2.** RCW 76.04.165 and 1995 c 151 s 2 are each amended to
9 read as follows:

10 (1) The legislature finds and declares that forestlands and
11 shrub-steppe lands within the state are increasingly being used for
12 residential purposes; that the risk to life and property is
13 increasing from forest fires which may destroy developed property;
14 that, based on the primary missions for the respective fire control
15 agencies established in this chapter, adjustment of the geographic
16 areas of responsibility has not kept pace with the increasing use of
17 forestlands for residential purposes; and that the department should
18 work with the state's other fire control agencies to define
19 geographic areas of responsibility that are more consistent with
20 their respective primary missions.

21 (2) To accomplish the purposes of subsection (1) of this section,
22 the department shall establish a procedure to clarify its geographic
23 areas of responsibility. The areas of department protection shall be
24 called forest protection zones and do not necessarily include all
25 parcels paying a per parcel assessment as specified in RCW 76.04.610.

26 (a) Other than as specified in (b) of this subsection, the
27 department shall protect all forestland that the department is
28 obligated to protect and all state and privately owned unimproved
29 lands located outside of fire protection districts as of January 1,
30 2016.

31 (b) The forest protection zones shall include all forestland and
32 nonforested, unimproved land which the department is obligated to
33 protect but shall not include forestland and nonforested, unimproved
34 land within rural fire districts or municipal fire districts which
35 affected local fire control agencies agree, by mutual consent with
36 the department, is not appropriate for department protection.
37 Forestland and nonforested, unimproved land not included within a
38 forest protection zone established by mutual agreement of the

1 department and a rural fire district or a municipal fire district
2 shall not be assessed under RCW 76.04.610 or 76.04.630.

3 (3) After the department and any affected local fire protection
4 agencies have agreed on the boundary of a forest protection zone, the
5 department shall establish the boundary by rule under chapter 34.05
6 RCW.

7 (4) Except by agreement of the affected parties, the
8 establishment of forest protection zones shall not alter any mutual
9 aid agreement.

10 **Sec. 3.** RCW 76.04.167 and 2001 c 279 s 1 are each amended to
11 read as follows:

12 (1) The legislature hereby finds and declares that:

13 (a) Forest wild fires are a threat to public health and safety
14 and can cause catastrophic damage to public and private resources,
15 including clean air, clean water, fish and wildlife habitat, timber
16 resources, forest soils, scenic beauty, recreational opportunities,
17 economic and employment opportunities, structures, and other
18 improvements;

19 (b) Forest landowners and the public have a shared interest in
20 protecting forests and forest resources by preventing and suppressing
21 forest wild fires;

22 (c) A recent independent analysis of the state fire program
23 considered it imperative to restore a more equitable split between
24 the general fund and forest protection assessments;

25 (d) Without a substantial increase in forest protection funds,
26 the state's citizens will be paying much more money for emergency
27 fire suppression; and

28 (e) It is therefore the intent of the legislature that the costs
29 of fire protection be equitably shared between the forest protection
30 assessment account and state contributions to ensure that there will
31 be sufficient firefighters who are equipped and trained to respond
32 quickly to fires in order to keep fires small and manage those large
33 fires that do occur. In recognition of increases in landowner
34 assessments, the legislature declares its intent that increases in
35 the state's share for forest protection should be provided to
36 stabilize the funding for the forest protection program, and that
37 sufficient state funds should be committed to the forest protection
38 program so that the recommendations contained in the 1997 tridata
39 report can be implemented on an equitable basis.

1 (2) The legislature hereby finds and declares that it is in the
2 public interest to establish and maintain a complete, cooperative,
3 and coordinated forest fire protection and suppression program for
4 the state; that, second only to saving lives, the primary mission of
5 the department is protecting forest resources and suppressing forest
6 and nonforested, unimproved land wild fires; that a primary mission
7 of rural fire districts and municipal fire departments is protecting
8 improved property and suppressing structural fires; and that the most
9 effective way to protect structures is for the department to focus
10 its efforts and resources on aggressively suppressing forest wild
11 fires.

12 (3) The legislature acknowledges that the department may use
13 discretionary authority to take actions that may prevent approaching
14 wildfire from destroying or damaging homes and other improvements,
15 although the legislature finds that this is not the primary mission
16 of the department as specified in subsection (2) of this section.

17 (4) The legislature also acknowledges the natural role of fire in
18 forest ecosystems, and finds and declares it in the public interest
19 to use fire under controlled conditions to prevent wild fires by
20 maintaining healthy forests and eliminating sources of fuel.

21 **Sec. 4.** RCW 76.04.016 and 1993 c 196 s 1 are each amended to
22 read as follows:

23 The department when acting, in good faith, in its statutory
24 capacity as a fire prevention and suppression agency, is carrying out
25 duties owed to the public in general and not to any individual person
26 or class of persons separate and apart from the public. Nothing
27 contained in this title, including but not limited to any provision
28 dealing with payment or collection of forest protection or fire
29 suppression assessments or actions taken by the department within its
30 discretionary authority that may prevent approaching wildfire from
31 destroying or damaging personal property, may be construed to
32 evidence a legislative intent that the duty to prevent and suppress
33 forest fires or the use of discretionary authority to take actions
34 that may prevent destruction or damage to personal property is owed
35 to any individual person or class of persons separate and apart from
36 the public in general. This section does not alter the department's
37 duties and responsibilities as a landowner.

1 **Sec. 5.** RCW 76.04.610 and 2012 2nd sp.s. c 7 s 922 are each
2 amended to read as follows:

3 (1)(a) The department shall annually impose a per parcel
4 assessment of four dollars and ninety-five cents on each taxable
5 parcel of land within the state of Washington, except parcels that
6 are exempt from property tax under RCW 84.36.015 or parcels that are
7 exempt in whole or in part from property tax under RCW 84.36.381.
8 Only those parcels identified in (b) of this subsection may be
9 provided fire protection services by the department.

10 (b) If any owner of forestland or nonforested, unimproved land
11 outside of a fire protection district boundary but within a forest
12 protection zone neglects or fails to provide adequate fire protection
13 as required by RCW 76.04.600, the department shall provide such
14 protection and shall annually impose the following assessments on
15 each parcel of such land: (i) A ((flat fee assessment of seventeen
16 dollars and fifty cents; and (ii) twenty-seven cents on each acre
17 exceeding fifty acres)) per acre assessment of twenty-seven cents on
18 each acre within parcels lying west of Okanogan, Chelan, Kittitas,
19 Yakima, and Klickitat counties; and (ii) a per acre assessment of
20 twenty-nine cents on each acre within parcels not specified in (b)(i)
21 of this subsection.

22 ~~((b) Assessors may, at their option, collect the assessment on~~
23 ~~tax exempt lands. If the assessor elects not to collect the~~
24 ~~assessment, the department may bill the landowner directly.~~

25 ~~(2) An owner who has paid assessments on two or more parcels,~~
26 ~~each containing fewer than fifty acres and each within the same~~
27 ~~county, may obtain the following refund:~~

28 ~~(a) If all the parcels together contain less than fifty acres,~~
29 ~~then the refund is equal to the flat fee assessments paid, reduced by~~
30 ~~the total of (i) seventeen dollars and (ii) the total of the amounts~~
31 ~~retained by the county from such assessments under subsection (5) of~~
32 ~~this section.~~

33 ~~(b) If all the parcels together contain fifty or more acres, then~~
34 ~~the refund is equal to the flat fee assessments paid, reduced by the~~
35 ~~total of (i) seventeen dollars, (ii) twenty seven cents for each acre~~
36 ~~exceeding fifty acres, and (iii) the total of the amounts retained by~~
37 ~~the county from such assessments under subsection (5) of this~~
38 ~~section.~~

39 ~~Applications for refunds shall be submitted to the department on~~
40 ~~a form prescribed by the department and in the same year in which the~~

1 ~~assessments were paid. The department may not provide refunds to~~
2 ~~applicants who do not provide verification that all assessments and~~
3 ~~property taxes on the property have been paid. Applications may be~~
4 ~~made by mail.~~

5 ~~In addition to the procedures under this subsection,~~)

6 (2)(a) Property owners as identified in subsection (1)(b) of this
7 section with multiple parcels in ((a single county who qualify for a
8 refund under this section may apply)) one county may elect to pay no
9 more than ten parcel assessments provided that the property owner
10 applies to the department on an application listing all the parcels
11 owned in order to have the per acreage assessment computed on all
12 parcels but to have the per parcel assessment billed to a single
13 parcel. ~~((Property owners with the following number of parcels may~~
14 ~~apply to the department in the year indicated:~~

Year	Number of Parcels
2002	10 or more parcels
2003	8 or more parcels
2004 and thereafter	6 or more parcels))

19 (b) The department must compute the correct assessment and
20 allocate one parcel in the county to use to collect the assessment.
21 The county must then bill the forest fire protection assessment on
22 that one allocated identified parcel. The landowner is responsible
23 for notifying the department of any changes in parcel ownership.

24 ~~(3) ((Beginning January 1, 1991,~~) Under the administration and
25 at the discretion of the department up to two hundred thousand
26 dollars per year of this assessment shall be used in support of those
27 rural fire districts assisting the department in fire protection
28 services on forest lands.

29 (4) For the purpose of this chapter, the department may divide
30 the forestlands of the state, or any part thereof, into districts,
31 for fire protection and assessment purposes, may classify lands
32 according to the character of timber prevailing, and the fire hazard
33 existing, and place unprotected lands under the administration of the
34 proper district. Amounts paid or contracted to be paid by the
35 department for protection of forestlands from funds at its disposal
36 shall be a lien upon the property protected, unless reimbursed by the
37 owner within ten days after October 1st of the year in which they
38 were incurred. The department shall be prepared to make statement

1 thereof, upon request, to a forest owner whose own protection has not
2 been previously approved as to its adequacy, the department shall
3 report the same to the assessor of the county in which the property
4 is situated. The assessor shall extend the amounts upon the tax rolls
5 covering the property, and upon authorization from the department
6 shall levy the forest protection assessment against the amounts of
7 unimproved land as shown in each ownership on the county assessor's
8 records. The assessor may then segregate on the records to provide
9 that the improved land and improvements thereon carry the millage
10 levy designed to support the rural fire protection districts as
11 provided for in RCW 52.16.170.

12 (5) The amounts assessed shall be collected at the time, in the
13 same manner, by the same procedure, and with the same penalties
14 attached that general state and county taxes on the same property are
15 collected, except that errors in assessments may be corrected at any
16 time by the department certifying them to the treasurer of the county
17 in which the land involved is situated. Assessments shall be known
18 and designated as assessments of the year in which the amounts became
19 reimbursable. Upon the collection of assessments the county treasurer
20 shall place fifty cents of the total assessments paid on a parcel for
21 fire protection into the county current expense fund to defray the
22 costs of listing, billing, and collecting these assessments. The
23 treasurer shall then transmit the balance to the department.
24 Collections shall be applied against expenses incurred in carrying
25 out the provisions of this section, including necessary and
26 reasonable administrative costs incurred by the department in the
27 enforcement of these provisions. The department may also expend sums
28 collected from owners of forestlands or received from any other
29 source for necessary administrative costs in connection with the
30 enforcement of RCW 76.04.660.

31 (6) Beginning in fiscal year 2017, the department shall transfer
32 ten percent of the revenue collected from the parcel assessments
33 specified in subsection (1) of this section into the military
34 department active state service account, created in RCW 38.40.220.

35 (7) When land against which forest protection assessments are
36 outstanding is acquired for delinquent taxes and sold at public
37 auction, the state shall have a prior lien on the proceeds of sale
38 over and above the amount necessary to satisfy the county's
39 delinquent tax judgment. The county treasurer, in case the proceeds
40 of sale exceed the amount of the delinquent tax judgment, shall

1 immediately remit to the department the amount of the outstanding
2 forest protection assessments.

3 ~~((7) All nonfederal public bodies owning or administering~~
4 ~~forestland included in a forest protection zone))~~ (8) Forestland and
5 nonforested, unimproved land located outside of a fire protection
6 district boundary as of January 1, 2016, and owned or administered by
7 nonfederal public bodies or having tax-exempt status must be
8 protected from wildfire by the department and shall pay the forest
9 protection assessments provided in this section and the special
10 forest fire suppression account assessments under RCW 76.04.630. The
11 forest protection assessments and special forest fire suppression
12 account assessments shall be payable by nonfederal public bodies from
13 available funds within thirty days following receipt of the written
14 notice from the department which is given after October 1st of the
15 year in which the protection was provided. Unpaid assessments are not
16 a lien against the nonfederal publicly owned land but shall
17 constitute a debt by the nonfederal public body to the department and
18 are subject to interest charges at the legal rate. During the
19 2011-2013 fiscal biennium, the forest fire protection assessment
20 account may be appropriated to The Evergreen State College for
21 analysis and recommendations to improve the efficiency and
22 effectiveness of the state's mechanisms for funding fire prevention
23 and suppression activities.

24 ~~((+8))~~ (9) A public body, having failed to previously pay the
25 forest protection assessments required of it by this section, which
26 fails to suppress a fire on or originating from forestlands owned or
27 administered by it, is liable for the costs of suppression incurred
28 by the department or its agent and is not entitled to reimbursement
29 of costs incurred by the public body in the suppression activities.

30 ~~((+9))~~ (10) The department may adopt rules to implement this
31 section, including, but not limited to, rules on levying and
32 collecting forest protection assessments.

33 NEW SECTION. **Sec. 6.** This act takes effect January 1, 2017.

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