

HOUSE BILL REPORT

ESHB 1489

As Passed Legislature

Title: An act relating to private wildland fire suppression contractors.

Brief Description: Concerning private wildland fire suppression contractors.

Sponsors: House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Kretz, Blake and Short).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/1/17, 2/8/17 [DPS].

Floor Activity:

Passed House: 2/27/17, 96-0.

Passed Senate: 3/30/17, 49-0.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Makes adjustments to the process by which the Department of Natural Resources (Department) compiles and updates the master list of wildland fire suppression contractors.
- Requires the Department to coordinate with federal wildland firefighting agencies to prioritize the use of local wildland fire suppression contractors as well as other local resources.
- Requires the Department to report to the Legislature on successes and limitations of preseason outreach and recruitment.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Blake, Chair; Chapman, Vice Chair; Buys, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Chandler, Fitzgibbon, Kretz, Lytton, Orcutt, Pettigrew, Robinson, Schmick, Springer, Stanford and J. Walsh.

Staff: Rebecca Lewis (786-7339).

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

Background:

Department of Natural Resources Firefighting Authority and Responsibility.

The Department of Natural Resources (Department) has direct charge and responsibility over all matters relating to forest fire services in the state. Landowners and people engaged in activity on land who have knowledge of a wildland fire have a duty to make every reasonable effort to suppress any on their land. That duty applies regardless of the origin or spread of the fire. If a person does not suppress a wildland fire, the Department must suppress it. The Department must enter into preemptive agreements with landowners who have equipment or capabilities that may be used in wildland fire suppression efforts, and conduct basic incident command system and wildfire training to landowners with firefighting capability.

When in the state's best interest and for the purposes of forest firefighting and patrol, the Department may cooperate with any agency of another state, the United States or a federal agency, or any county, town, corporation, person, or Native American tribe. Further, the Department may contract and enter into agreements with private corporations, including wildland fire suppression contractors (contractors), for the protection and development of the forestlands within the state. The Department must annually compile and update master lists of qualified contractors with valid incident qualifications for the kind of work to be performed.

Wildland Fire Advisory Committee.

The Wildland Fire Advisory Committee (Committee) was created in 2015. The Committee must advise the Commissioner of Public Lands (Commissioner) on all matters related to wildland firefighting in the state. This includes developing strategies to enhance the safe and effective use of private and public wildland firefighting resources.

The Commissioner may appoint members as the Commissioner determines is most helpful. However, the Commissioner is required to invite at least the following people:

- the local wildland fire liaison appointed by the Commissioner;
- two county commissioners: one from east of the crest of the Cascade mountains, and one from west of the crest of the Cascade mountains;
- two owners of industrial land: one owner of timberland, and one owner of rangeland;
- the State Fire Marshal or a representative of the State Fire Marshal's Office;
- two individuals with the title of fire chief: one from a community located east of the crest of the Cascade mountains, and one from a community located west of the crest of the Cascade mountains;
- one individual with the title of fire commissioner;
- one small forest landowner; and
- one representative from each of the following: (1) a federal wildland firefighting agency; (2) a tribal nation; (3) a statewide environmental organization; and (4) a state land trust beneficiary.

Local Wildland Fire Liaison.

A Commissioner-appointed local wildland fire liaison (liaison) chairs the Committee. The liaison reports directly to the Commissioner and generally represents the interests and concerns of landowners and the public during the Department's fire suppression activities.

The liaison was required to report recommendations to the Commissioner by December 31, 2015, on several aspects of local wildfire response, including the following:

- opportunities for the Department to increase training with local fire protection districts;
- the ability to quickly evaluate the availability of local fire district resources to allow the local resources to be more efficiently and effectively dispatched to wildland fires; and
- ways to increase and maintain the viability of local fire suppression assets.

The Department was required to report the liaison's recommendations to the Legislature by October 31, 2016, summarizing the recommendations, explaining the steps the Department took to implement the recommendations, and offering analyses of the results.

The appointment of the liaison and the preparation of the report are subject to appropriation.

Summary of Engrossed Substitute Bill:

Department of Natural Resources Firefighting Authority and Responsibility.

The Department must enter into preemptive agreements for wildland fire suppression with other contractors, as well as with landowners. When entering into preemptive agreements, the Department must ensure that all equipment and personnel satisfy all applicable safety training certifications required by the Department of Labor and Industries as well as the Department and must inspect, or verify inspection, of any equipment included in agreement to ensure safety and dependability standards are met.

When compiling and updating the master list of qualified wildland fire suppression contractors (contractors), the Department must conduct preseason outreach and recruitment of contractors with valid incident qualifications. The local wildland fire liaison may help the Department with the preseason outreach and recruitment of contractors. Authorization to assist with the recruitment of local contractors is added. The Department must also reach out to equipment owners with valid incident qualifications.

The master list must identify the counties where contractors and equipment owners are located. The Department must provide the list, and the availability status of the contractors on the list to local emergency dispatchers, county legislative authorities, emergency management departments, and local fire districts.

Contractors must be under the supervision of recognized wildland fire personnel while engaged in fire suppression activities. The Department must also verify that agreements have been finalized with an agreed-upon standard operating rate identified before being included on the master list of qualified contractors. The Department must cooperate with federal wildland firefighting agencies to prioritize the efficient use of local resources, including local private contractors, based on predicted need. Also, the Department is not prohibited from engaging with local private contractors as needed who are either not included on the master list or subject to a preemptive agreement.

The Department may authorize operational field personnel to carry additional personal protection equipment to loan to private fire contractors as needed. No civil liability may be

imposed for any adverse impacts resulting from personal protection equipment provided by the Department except upon proof of gross negligence or willful or wanton misconduct.

In consultation with the Wildland Fire Advisory Committee, the Department must report to the Legislature by November 30, 2018, on the successes and limitations with respect to the establishment of preemptive agreements with private contractors. The report must include recommendations to improve the effectiveness of the preemptive agreement process.

Language specifying that requirements for training, preemptive agreements, compiling the master list, and appointing a wildland fire liaison are subject to appropriation is restored.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on June 30, 2017.

Staff Summary of Public Testimony:

(In support) In the past few years many steps forward have been taken to improve wildland fire response. This bill is an attempt to improve pre-fire-season preparedness by making sure the Department's master list of wildland fire suppression contractors is more comprehensive. There are often contractors who do not keep their credentials up to date and fall off the master list. Local contractors who do not intend to chase fires around the region but otherwise have the equipment and experience should be able to respond when needed locally. No one wants to see capable local contractors not respond when their skills and equipment could be of use. After the 2014 and 2015 fire seasons everyone wanted to find ways to help improve preparation and response for future seasons. One of the more effective bills was House Bill 2309 in 2015 which created the Wildland Fire Advisory Committee (Committee). The Committee is comprised of individuals from several entities with practical experience responding to wildfires. The contents of the new report required in this bill lines up with the recommendations of the Committee. The reports required provide necessary "goal posts" for which the Committee should aim. The removal of language declaring the appointment of the liaison, committee, and its reports subject to appropriation is appropriate. The Committee has proven valuable and should continue.

(Opposed) None.

(Other) This bill is narrowly written and should maintain safety standards as it moves along in the process. Local forces should be used if they are available rather than forces from far away as long as everyone is following the rules and maintaining safety standards.

Persons Testifying: (In support) Representative Kretz, prime sponsor; and Jason Callahan, Washington Forest Protection Association.

(Other) Seamus Petrie, Washington Public Employees Association.

Persons Signed In To Testify But Not Testifying: None.