

HOUSE BILL REPORT

HB 1940

As Reported by House Committee On:
Rural Development, Agriculture, & Natural Resources

Title: An act relating to providing wildland fire response resources in the first forty-eight hours of a wildland fire.

Brief Description: Providing wildland fire response resources in the first forty-eight hours of a wildland fire.

Sponsors: Representatives Kretz and Blake.

Brief History:

Committee Activity:

Rural Development, Agriculture, & Natural Resources: 2/19/19, 2/22/19 [DP].

Brief Summary of Bill

- Requires the Department of Natural Resources (DNR) to retain and deploy non-DNR firefighting resources during the first 48 hours of wildfire response, if such resources are able to respond more quickly than DNR resources, subject to certain qualifications.
- Requires nonfederal fire protection service agencies to retain and deploy non-agency firefighting resources during the first 48 hours of wildfire response, if such resources are able to respond more quickly than agency resources, subject to certain qualifications.
- Directs the State Fire Marshal to establish a premobilization assistance program to provide financial assistance to local fire protection service agencies that contract for wildland fire response equipment during the first 48 hours of response to a wildland fire.
- Requires the State Fire Marshal to provide a report to the Legislature on the use of the premobilization assistance program.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE, & NATURAL RESOURCES

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.

Majority Report: Do pass. Signed by 14 members: Representatives Blake, Chair; Shewmake, Vice Chair; Dent, Assistant Ranking Minority Member; Chapman, Dye, Fitzgibbon, Kretz, Lekanoff, Orcutt, Pettigrew, Ramos, Schmick, Springer and Walsh.

Staff: Robert Hatfield (786-7117).

Background:

Department of Natural Resources: Firefighting Authority and Responsibility.

The Department of Natural Resources (DNR) is responsible for forest fire prevention and response on both state-owned and private forestland in Washington.

Forestland is defined as unimproved land with enough trees or flammable material to create a fire menace to life or property. Sagebrush and grass areas east of the Cascade mountains may be considered forestland if such lands are adjacent to, or intermingled with, tree growth. For protection purposes, forestland does not include structures.

For the purposes of forest firefighting and patrol, the DNR may cooperate with any agency of another state, the United States or a federal agency, or any county, town, corporation, person, or Indian tribe. Furthermore, the DNR may contract and enter into agreements with private corporations, including wildland fire suppression contractors, for the protection and development of forestlands within the state.

Department of Natural Resources' Master Contractor Lists.

In order to maximize the effective utilization of local fire suppression assets, the DNR is required to maintain master lists of qualified fire suppression contractors who have valid incident qualifications for the kind of contracted work to be performed. The DNR is required to make the lists available to county legislative authorities, emergency management departments, and local fire districts. The DNR is also required to enter into preemptive agreements with landowners in possession of firefighting capability that may be used in wildland fire suppression efforts.

When entering into those types of preemptive agreements with landowners, the DNR is required to ensure that all equipment and personnel satisfy the DNR's standards and that all contractors are under the supervision of recognized wildland fire personnel while engaged in fire suppression activities.

State Fire Services Mobilization.

During an emergency, when a local jurisdiction needs assistance beyond the capabilities of local resources and mutual aid agreements, a request may be made for a state fire service mobilization (mobilization). "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.

The Chief of the Washington State Patrol (WSP) has the authority to mobilize jurisdictions under the Washington State Fire Services Mobilization Plan (Mobilization Plan). The purpose of the Mobilization Plan is to provide a mechanism and process to quickly notify, assemble, and deploy fire service personnel and equipment to any local fire jurisdiction in Washington that has expended or will expend all available local and mutual aid resources in attempting to manage fires, disasters, or other events that jeopardize the ability of a jurisdiction to provide for the protection of life and property. The State Fire Marshal in the WSP serves as the state fire resources coordinator when a Mobilization Plan is initiated.

Summary of Bill:

Department of Natural Resources–Use of Non-Department Resources.

Within one hour of learning of an active wildfire, the Department of Natural Resources (DNR) must determine whether DNR resources are readily available to be deployed for initial suppression of the fire. If, during the first 48 hours of response to the wildfire, the DNR determines that non-DNR resources, including private firefighting resources, are able to respond more quickly to the wildfire than DNR resources, the DNR must, except in instances of significant cost disparity, retain and deploy the non-DNR resources for the first 48 hours of wildfire response.

No civil liability may be imposed by any court on the state, the DNR, or the officers and employees of the state or the DNR for any direct or proximate adverse impacts resulting from the actions taken pursuant to this requirement during initial suppression, or the actions and activities of the private firefighting resources utilized by the DNR pursuant to this requirement, except upon proof of gross negligence or willful or wanton misconduct by the DNR, its employees, or the private firefighting resources utilized by the DNR.

Nonfederal Fire Protection Service Agencies–Use of Non-Agency Resources.

Within one hour of learning of an active wildfire on unimproved or unprotected property, a nonfederal fire protection service agency (nonfederal fire protection agency) must determine whether agency resources are readily available to be deployed for initial suppression of the fire. If, during the first 48 hours of response to the wildfire, the agency determines that non-agency resources, including private firefighting resources, are able to respond more quickly to the wildfire than agency resources, the agency must, except in instances of significant cost disparity, retain and deploy the non-agency resources for the first 48 hours of wildfire response.

No civil liability may be imposed by any court on the nonfederal fire protection agency, or the officers and employees of the nonfederal fire protection agency for any direct or proximate adverse impacts resulting from the actions taken pursuant to this requirement during initial suppression, or the actions and activities of the private firefighting resources utilized by the nonfederal fire protection agency pursuant to this requirement, except upon proof of gross negligence or willful or wanton misconduct by the nonfederal fire protection agency, its employees, or the private firefighting resources utilized by the nonfederal fire protection agency.

State Fire Marshal–Premobilization Assistance Program.

The State Fire Marshal must establish and manage a premobilization assistance program designed to provide financial assistance to a local fire protection service agency (local fire protection agency) for the cost of contracting for wildland fire response equipment during the first 48 hours of response to a wildland fire, for the purpose of preventing wildland fires from escalating to a level where state fire service mobilization (mobilization) becomes necessary. The scope of equipment for which reimbursement is available includes, but is not limited to, bulldozers, water trucks, and aircraft. If the wildland fire incident for which reimbursement is sought involves assistance by the DNR or mobilization, reimbursement is available only for costs incurred in connection with contracting for wildland fire response equipment prior to the involvement of the DNR or mobilization.

The State Fire Marshal must provide reimbursement to a local fire protection agency of up to \$10,000 per wildland fire incident for the cost of contracting for wildland fire response equipment during the first 48 hours of response to a wildland fire. If the cost to a local fire protection agency exceeds \$10,000, the State Fire Marshal may approve additional funding of up to \$10,000. Total reimbursement from the premobilization assistance program to a local fire protection agency may not exceed \$20,000 per wildland fire incident.

The State Fire Marshal is not required to provide funding to the premobilization assistance program beyond the amount specifically appropriated by the Legislature for that purpose.

The State Fire Marshal is required to provide a report to the Legislature on the use of the premobilization assistance program. The report is due by December 1, 2025.

Local Fire Protection Service Agency–Definition.

"Local fire protection service agency" is defined as an local governmental entity responsible for the provision of firefighting services, including fire protection districts, regional fire protection service authorities, cities, towns, and port districts.

Appropriation: None.

Fiscal Note: Requested on February 14, 2019.

Effective Date: This bill contains an emergency clause and takes effect immediately, except for section 4, relating to definitions, and section 5, relating to a report to be prepared by the State Fire Marshal, which take effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Cost is often a factor in making decisions about the initial response to a wildfire, but the consequences of inadequately responding to a fire in its early stages can lead to significant response costs later. The first, closest asset to a fire needs to be the one to respond. There have multiple instances where there have been local assets available to fight a wildfire, but for one reason or another, those local assets did not get used. Sometimes,

assets from far away are the ones that are used, even where there are closer assets. A resource that is a little bit cheaper, but far away, is not as cost-effective as an asset that is nearby, even if it is a little more expensive. When a person is having a medical emergency, they do not do a cost comparison of different ambulances; they want the one that will get them to the hospital first.

Emphasizing local assets makes sense. Investments in initial attack are one of the best investments the Legislature can make.

(Opposed) None.

(Other) The Department of Natural Resources has been emphasizing the importance of having contracts in place with private wildfire contractors early in the fire season. There are some concerns about the ability to track the location of fire assets in real time. There are opportunities for further streamlining in this bill.

There are concerns about the lack of clarity about tracking the location of wildfire resources. Also, there is not a definition of what constitutes a significant cost disparity. It is more important to get the fire out than to pinch every penny. It is often much more expensive to contract out work than to do it in-house.

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

(Other) Loren Torgerson, Washington Department of Natural Resources; and Seamus Petrie, Washington Public Employee Association.

Persons Signed In To Testify But Not Testifying: None.