

SENATE BILL REPORT

EHB 1169

As of March 28, 2019

Title: An act relating to clarifying reimbursement for certain clean-up or removal actions by fire protection jurisdictions.

Brief Description: Clarifying reimbursement for certain clean-up or removal actions by fire protection jurisdictions.

Sponsors: Representatives Peterson, Griffey, Goodman, Ortiz-Self and Pollet.

Brief History: Passed House: 3/13/19, 64-32.

Committee Activity: Local Government: 3/21/19 [w/oRec-FIET, w/oRec].
Financial Institutions, Economic Development & Trade: 3/28/19.

Brief Summary of Bill

- Allows fire protection districts, regional fire protection service authorities, and municipal fire departments to recover from an insurer, the reasonable costs associated with the cleanup or removal of hazardous waste and other hazardous materials.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: That it be referred without recommendation and be referred to Committee on Financial Institutions, Economic Development & Trade.

Signed by Senators Salomon, Vice Chair; Short, Ranking Member; Honeyford.

Minority Report: That it be referred without recommendation.

Signed by Senator Lovelett.

Staff: Greg Vogel (786-7413)

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, ECONOMIC DEVELOPMENT & TRADE

Staff: Clint McCarthy (786-7319)

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: Fire Protection Districts. Fire protection districts (fire districts) are a type of special purpose district created to provide fire prevention, fire suppression, and emergency medical services within a district's boundaries. Generally, districts serve residents outside of cities or towns, except when cities and towns have been annexed into a district or when the district continues to provide service to a newly incorporated area. A fire district may be established through election or a petition signed by 60 percent of voters. Fire districts are governed by a board of three, five, or seven elected fire commissioners.

Municipal Fire Department. A municipal fire department is a city or town fire department responsible for firefighting actions, emergency medical services, and other special operations in a specified geographic area. The department must be composed of mostly career firefighters, not volunteers.

Regional Fire Protection Service Authority. Regional fire protection service authorities (RFA) are municipal corporations established to provide regional fire protection and emergency services within their jurisdictional boundaries. An RFA is formed through merging two or more fire protection jurisdictions located within a reasonable proximity of each other, including fire districts, cities, towns, port districts, municipal airports, and Indian tribes.

Hazardous Materials Incident Liability. Any person transporting hazardous materials, other than the operating employees of a transportation company, is liable to the state, a municipal fire department, a fire district, or any political subdivision for extraordinary costs incurred in the course of protecting the public from actual or threatened harm resulting from a hazardous materials incident.

Extraordinary costs are reasonable and necessary costs incurred by a governmental entity in the course of protecting life and property that exceed the normal and usual expenses anticipated for police and fire protection, emergency services, and public works. These costs include, but are not limited to, overtime for public employees, unusual fuel consumption requirements, any loss or damage to publicly owned equipment, and the purchase or lease of any special equipment or services required to protect the public during the hazardous materials incident.

Summary of Bill: Fire districts, RFAs, and municipal fire departments (fire service jurisdictions) are entitled to recover, from an insurer, the reasonable costs associated with the cleanup or removal of hazardous waste and other hazardous materials when responding to an incident.

The liable party must submit the reasonable costs from the fire service jurisdiction to any insurer that provides coverage for property damage the liable party is legally obligated or responsible for causing. If the liable party does not submit the invoice or bill to their insurer within 14 days then the fire service jurisdiction may directly submit the claim to the liable party's insurer for consideration of policy coverage. If there are multiple liable parties involved in an incident the fire service jurisdiction may only recover the proportional amount of liability legally determined for each party.

If coverage is found, the insurer may issue payment directly to the fire service jurisdiction and apply the claim expense to the liable party's policy's limit of liability.

"Incident" is defined as an unplanned, unintentional action or situation that necessitates a fire service jurisdiction response including, but not limited to, a motor vehicle accident, hazardous material spill, unauthorized burn, boating accident, or airplane crash. "Vehicle" is defined as any mode of transportation operated by a liable party and involved in an incident including, but not limited to, automobiles, trucks, boats, aircraft, trains, and motorbikes.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Local Government): PRO: Local governments often struggle with costs in day-to-day operations and the costs the state imparts on them. We are looking for ways to support local fire districts and city governments in any way we can, and this bill presents one such opportunity.

Over 75 percent of insurance companies already pay these reasonable cleanup costs and they are routinely covered. The legislation merely clarifies the appropriate scope and process of these policy coverages. The bill is only necessary because of recent rejections based on technicalities and word games. Fire district revenues should go towards response and readiness.

CON: Insurers believe Washington's fire districts and associations provide vital services but the bill is not warranted. Nearly one third of districts cover costs of cleanup on their own with their own funds and those from Ecology. Most drivers pay for costs and expenses they are obligated to pay. Additionally, there are concerns about exactly what costs would be covered.

Persons Testifying (Local Government): PRO: Representative Strom Peterson, Prime Sponsor; Wayne Senter, Executive Director, Washington Fire Chiefs; Charlene Conrad, EF Recovery; Dylan Doty, Washington Fire Chiefs.

CON: Jean Leonard, Washington Insurers, State Farm, NAMIC, Nationwide; Dan McGrady, PEMCO; Mel Sorensen, APCIA, Allstate, American Family Insurance.

Persons Signed In To Testify But Not Testifying (Local Government): No one.

Staff Summary of Public Testimony (Financial Institutions, Economic Development & Trade): PRO: The state struggles when we put more stress on local entities. This bill is meant to clarify what happens when there is a cleanup on I-5, and how these incidents are paid for. Reasonable costs are the costs of the incidents. This will not make or break a fire district, but it is something the state can do to help them keep them in a better financial

experience. This bill has taken under consideration the concerns of the insurance industry. There are concerns about processing fees that could be billed to insurance that leads to less benefit to fire districts. Processing fees are not allowed under the language of the bill. This is done all over the country, and we are trying to put sideboards around how to deal with costs. This program allows fire departments to use insurance funds to keep hazardous materials from ending up in the tax drain. Taxpayers should be paying for readiness, not the impact of the accidents. This is a cost recovery system for a specific task to keep people safe.

CON: Washington's Fire Districts provide important services to our communities, but this bill is not warranted. Most insurers pay this already. Persons causing a spill can be held liable for extraordinary incidents. Some fire departments use billing agencies to collect revenue back, and they often keep one-third of what they collect. Let us work on the issues over the interim. There is confusion in the bill. It should speak to billing for actual costs. This bill wants all insurance companies to cover all these costs. This is a huge expanse over what was previously covered. There is no choice for the insured to pay for a cleanup out of pocket, the bill makes it so that they have to have it paid by insurance. This bill is well beyond the scope of automobile accidents. It includes non-public property now. There is no alternative to work through an issue privately. The scope of the bill needs to be changed to be only automobile accidents. This will result in a lot of claims that might not even reach the level of the deductible.

Persons Testifying (Financial Institutions, Economic Development & Trade): PRO: Representative Strom Peterson, Prime Sponsor; Jeff Clark, Fire Chief, Eastside Fire and Rescue; Kevin O'Brien, Fire Chief, Lake Stevens Fire; Charlene Conrad, EF Recovery; Dylan Doty, Washington Fire Chiefs.

CON: Carrie Tellefson, USAA; Dan McGrady, PEMCO; Mel Sorensen, American Property Casualty Insurance Association, Allstate and American Family Insurance; Jean Leonard, Washington Insurers, State Farm, Nationwide, and NAMIC.

Persons Signed In To Testify But Not Testifying (Financial Institutions, Economic Development & Trade): No one.