

HOUSE BILL REPORT

2SHB 1168

As Amended by the Senate

Title: An act relating to long-term forest health and the reduction of wildfire dangers.

Brief Description: Concerning long-term forest health and the reduction of wildfire dangers.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Springer, Kretz, Fitzgibbon, Griffey, Riccelli, Lekanoff, Ramos, Callan, Harris-Talley, Dent and Klicker).

Brief History:

Committee Activity:

Rural Development, Agriculture & Natural Resources: 1/22/21, 1/29/21 [DPS];
Appropriations: 2/16/21, 2/17/21 [DP2S(w/o sub RDAN)].

Floor Activity:

Passed House: 3/9/21, 96-0.

Senate Amended.

Passed Senate: 4/9/21, 49-0.

Brief Summary of Second Substitute Bill

- Requires the Department of Natural Resources (DNR) to develop a mapping tool within the Forest Health Assessment and Treatment Framework (Framework).
- Specifies ways in which the DNR must coordinate with various entities in developing and implementing the Framework.
- Directs the DNR to work with the Department of Commerce to implement initiatives to develop a forest health work force, and work with the Department of Corrections to expand existing programs to provide additional wildfire, forest health, and silvicultural capacity.
- Creates the Wildfire Response, Forest Restoration, and Community Resilience Account (Account) to fund certain wildfire preparedness,

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prevention, and protection activities and requires the DNR to report every two years on how Account funds are used.

- Creates a Wildland Fire Aviation Support Plan to include recommendations related to the use of dedicated air resources.
- Creates a Small Forest Landowner Forest Health Program.
- Makes changes to the government-to-government coordination role of the Commissioner of Public Lands.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Chapman, Chair; Shewmake, Vice Chair; Dent, Assistant Ranking Minority Member; Fitzgibbon, Klicker, Kloba, Kretz, Lekanoff, Morgan, Orcutt, Ramos and Springer.

Minority Report: Do not pass. Signed by 1 member: Representative Chandler, Ranking Minority Member.

Minority Report: Without recommendation. Signed by 2 members: Representatives McEntire and Schmick.

Staff: Rebecca Lewis (786-7339).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Rural Development, Agriculture & Natural Resources. Signed by 29 members: Representatives Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chandler, Chopp, Cody, Dolan, Fitzgibbon, Hansen, Harris, Hoff, Jacobsen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

Minority Report: Without recommendation. Signed by 4 members: Representatives Ormsby, Chair; Dye, Frame and Schmick.

Staff: Dan Jones (786-7118).

Background:

The Department of Natural Resources.

The Department of Natural Resources (DNR) has direct charge and responsibility over all matters pertaining to forest fire services in the state. The forest fire-related duties of the DNR include enforcing all forest fire-related laws, investigating the cause of forest fires, and directing fire suppression efforts. In 2007 the Legislature designated the DNR as the state lead in developing a comprehensive forest health program for the state. As part of that designation, the DNR was directed to gather and disseminate forest health information, to coordinate forest health monitoring activities, and to coordinate with universities and other agencies to provide landowners with technical assistance regarding forest health. Additionally, in 2019, the DNR developed the 10-year Wildland Fire Strategic Plan that establishes goals and identifies strategies for wildland fire preparedness, response, and recovery.

Forest Health Assessment and Treatment Framework (RCW 76.06.200).

In 2017 the DNR established the Forest Health Assessment and Treatment Framework (Framework) at the direction of the Legislature. The Framework has three components: assessment, treatment, and progress review and reporting. The purpose of the Framework is to proactively and systematically address forest health issues facing the state. The DNR must use the Framework to assess and treat fire prone lands each biennium, with a goal of assessing and treating 1 million acres of land by 2033. In developing and implementing the Framework, the DNR must use and build on the 20-year forest health strategic planning initiated at the direction of the Legislature in 2016.

Forest Health Advisory Committee.

In 2017 the DNR established the Forest Health Advisory Committee (Committee) to assist in developing and implementing the Framework. The Committee may include representation from a variety of forest health stakeholder groups, including forest landowners, wildland fire response organizations, conservation groups, and local communities. The Committee may consult with federal agencies and with local, state, and tribal governments.

Wildland Fire Advisory Committee.

The Wildland Fire Advisory Committee (Advisory Committee) was created in 2015. The Advisory Committee advises 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 of Public Lands.

The Commissioner is designated as the state's lead for all forest health issues and is responsible for promoting government-to-government communications between the state and federal government on forest land management decisions. Each year, the Commissioner must provide a progress report to the Legislature on their coordination responsibility and any recommended statutory changes, policy issues, or funding needs.

Good Neighbor Agreements.

The United States Congress first authorized a Good Neighbor pilot program in 2000 between the United States Forest Service (USFS) and the Colorado State Forest Service. Since that time, the Good Neighbor Authority Program has expanded to include the Bureau of Land Management (BLM) in addition to the USFS, and to encompass all 50 states and Puerto Rico. Under Good Neighbor Authority agreements, state agencies are authorized to undertake a broad array of land management activities on USFS and BLM lands, including fuels management, and forest, range, and fisheries habitat restoration.

Tribal Forest Protection Act of 2004.

The Tribal Forest Protection Act authorizes the Secretaries of Agriculture and Interior to give special consideration to tribally proposed stewardship, contracting, or other projects on USFS or BLM land bordering or adjacent to Indian trust land to protect the Indian trust resources from fire, disease, or other threat coming off of that USFS or BLM land.

Summary of Second Substitute Bill:

The Department of Natural Resources.

Forest Health Assessment and Treatment Framework.

Within the assessment element of the Forest Health Assessment and Treatment Framework, the Department of Natural Resources (DNR) must develop a mapping tool to identify small forest land owners (SFLOs) within wildfire risk areas. The DNR must use the mapping tool to evaluate and optimize forest health work to reduce wildfire risk in high risk areas and leverage funding and landowner assistance programs with the greatest impact for wildfire prevention, preparedness, and response.

The DNR must take additional actions when developing and implementing the Forest Health Assessment and Treatment Framework. These actions include: (1) partnering with federally recognized tribes where possible to expand the use of the Tribal Forest Protection Act on certain federal lands; and (2) prioritizing forest health treatments nearby or adjacent to state lands when entering into good neighbor agreements, to increase the speed, efficiency, and impact on the landscape.

Small Forest Landowner Forest Health Program.

A Small Forest Landowner Forest Health Program is established that promotes the coordination of services to SFLOs and integrates existing landowner assistance programs to efficiently and effectively reach diverse SFLOs, distributes funding effectively to lower wildfire risk in high risk areas, increases education and outreach to small forest land owners, and identifies and removes barriers to technical assistance, funding, and forest health management planning. Priority areas for treatment under the Washington State Forest Action Plan, 10-year Forest Health Strategic Plan, and Wildland Fire Protection 10-year Strategic Plan may not prohibit technical support or stewardship plan support for SFLO lands outside the designated emphasis areas.

Workforce Development.

The DNR, jointly with the Department of Commerce (Commerce), and in consultation with centers for excellence, higher education, secondary education, and workforce development centers, must develop and implement initiatives to develop a forest health workforce. This includes developing a plan for tracking, maintaining, and publicly reporting on specific items related to development of workforce initiatives including: a working definition of the forest sector workforce; training recommendations; identification of gaps and barriers to a full forest sector workforce pool; and any recommendations for addressing barriers or other needs to develop a forest sector workforce.

The DNR and the Department of Corrections must jointly expand existing programs to provide additional wildfire, forest health, and silvicultural capacity, such as a post-release program to help formerly incarcerated individuals who have served on state fire response crews obtain employment in wildfire suppression and forest management.

The DNR must use existing programs, such as the Washington Conservation Corps, Washington Veterans Corps, or other similar programs to expand forest health workforce opportunities. Workforce development programs and policies should prioritize historically marginalized, underrepresented, rural, and low-income communities to the maximum extent possible.

Account and Reporting.

The Wildfire Response, Forest Restoration, and Community Resilience Account (Account) is created. Funds in the Account may be spent only after appropriation and used only to monitor, track, and implement certain wildfire preparedness, prevention, and protection purposes. Funds in the account may not be used for emergency fire costs or suppression costs. Appropriations for forest health activities must not be less than 25 percent of appropriations, and must not be less than 15 percent of appropriations for community resilience activities. The DNR may solicit recommendations on how to use funds in the account from the Forest Health Advisory Committee and the Wildland Fire Advisory

Committee (Advisory Committees). The Advisory Committees must use environmental justice or equity focused tools to identify highly impacted communities when making recommendations for investments from the Account.

By December 1 of each odd-numbered year, the DNR must provide a report to the Governor and Legislature on: (1) the type, amount, and purpose of expenditures made from the Account by fiscal year; (2) the amount of unspent and unobligated funds in the Account, and recommendations for disbursement to local districts; (3) progress on the implementation of the Wildland Fire Protection 10-year Strategic Plan; and (4) progress on the implementation of the 20-year Forest Health Strategic Plan. The DNR must also include any recommendations for adjustments to how Account funds are disbursed.

Duties of the Commissioner of Public Lands.

The government-to-government coordination responsibilities of the Commissioner of Public Lands (Commissioner) extend to communication and coordination with Tribes. Duties of the Commissioner are added to require the Commissioner to meet regularly with regional leadership of the United States Forest Service (USFS) to coordinate on:

1. identifying strategies to improve the delivery and increase the pace and scale of forest health and resiliency treatments on USFS lands;
2. documenting resources needed to increase the capacity available to the USFS;
3. identifying planning and implementation support to the USFS through cooperative agreements and good neighbor agreements; and
4. maximizing the use of efficiencies for compliance with the National Environmental Policy Act to increase the pace and scale of forest health treatments.

Instead of every year, the Commissioner must report to the Legislature every two years, and the report must include identification of any needed state or federal statutory changes, if deemed appropriate by the Commissioner, and an estimate of the acres of at-risk forests on each national forest and number of acres treated.

Wildland Fire Aviation Support Plan.

The DNR must develop and implement a Wildland Fire Aviation Support Plan as recommended by the Wildland Fire Protection 10-year Strategic Plan with the stated purpose to improve the effectiveness and cost-efficiency of the DNR's wildland fire aviation program. The plan must include recommendations for the addition of air assets, and evaluation of opportunities to increase air assets, costs and benefits to increase dedicated air resources, and strategies to upgrade the DNR's aircraft, as well as retardant loading and processing infrastructure at a port in Eastern Washington.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment makes the following changes to the underlying second substitute

House bill:

- adds language expressing legislative intent to increase funding for technical assistance and support for small forestland owners;
- adds language expressing legislative intent to provide \$500 million over the next four biennia to fund the bill;
- requires forest health treatments funded through the Wildfire Response, Forest Restoration, and Community Resilience Account to seek to use the value of any merchantable materials to help offset treatment costs to the greatest extent possible, and consistent with the 20-year Forest Health Strategic Plan, Wildland Fire Protection 10-Year Strategic Plan, or the Washington State Forest Action Plan and landowner objectives;
- requires the Department of Natural Resources (DNR) to explore opportunities and developing markets for the use of woody biomass residuals from forest treatments in consultation with the Department of Commerce (Commerce), relevant federal agencies, representatives of the forest products sector, environmental organization, and other stakeholders. Requires the DNR to include a report on the progress of this effort in the report required by the underlying second substitute House bill;
- directs the DNR and Commerce to work with forestland owners and companies to grow existing or develop new market opportunities for the use of material produced as a result of forest health treatments;
- provides that inmate forest fire suppression and support crews must receive a gratuity of no less than the minimum wage;
- directs the DNR to, prior to the determination of the 2025-2034 sustainable harvest calculation required by RCW 79.10.320 (sustainable harvest calculation), hire an independent third-party contractor to:
 - assist in updating DNR's forest inventory by increasing the intensity of forest sample plots on all forestlands over the next two biennia; and
 - review, analyze, and advise the DNR's forest growth and yield monitoring, with involvement from the DNR's Sustainable Harvest Technical Advisory Committee;
- directs the Joint Legislative Audit and Review Committee (JLARC), prior to the determination of the sustainable harvest calculation and in absence of any litigation against the sustainable harvest calculation either pending or in progress, to oversee and conduct an independent review of the methodologies and data being used by the DNR to develop the sustainable harvest calculation. The JLARC must provide a completed report to the Board of Natural Resources (Board); and
- directs the Board, upon receipt of the report from JLARC, to determine whether modifications to the sustainable harvest calculation prior to approving harvest level.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the

bill is passed. However, the bill is null and void unless funded in the operating budget.

Staff Summary of Public Testimony (Rural Development, Agriculture & Natural Resources):

(In support) Over the last few years it has become obvious that the state's communities and forests are at severe risk of wildfire, and something big needs to be done. People have lost homes, livestock, and lives, and the state cannot keep kicking the can down the road. Right now, this is a discussion about policy. Funding discussions will come later in the process. Adjustments made to address the COVID-19 pandemic made this fire season very different. Additionally, due to the active and long fire season in the west, firefighting crews were stretched very thin and Washington was largely on its own. Catastrophic wildfires do not need to be the new normal. The state needs to do more to prevent them. While 2020 was a bad fire season, it is not an outlier and without action the situation will get worse. This bill contains tools to help prepare for and prevent wildfire, and to develop a firefighting and forest health workforce.

At one point this summer there were five fires burning on the Colville Reservation. A mill was lost, many families lost everything, and the Colville Tribe is still in the process of assessing the damage. The state, tribes, and federal government must work together because wildfire does not have jurisdictional boundaries. There should be more programs like the Fire Adapted Communities Program, that help people understand how to prepare and protect their property from wildfire damage. In some parts of the state, community groups acted quickly to provide evacuation notices and assistance to displaced people in their native languages as well as English. Community resilience work in central Washington has been effective and helped engage the Latinx community. Kittitas County was one of the first counties in the state to have adopted the Wildland Urban Interface Code. Several women serve on the Roslyn Fire Department. The people in small communities do what they need to do to keep their communities safe. To have to evacuate on a moments notice is stressful to young kids and vulnerable communities. Marginalized communities are the most impacted during times of poor air quality. Many thought the Carlton Complex was a once-in-a-lifetime event, but large fires have become a new normal. The Okanogan County Long Term Recovery Group has helped thousands recover from fires not just in 2014, but also in subsequent years. Small communities do not have enough local funds to fight these fires on their own. The most successful forest health projects draw on two elements: (1) local and scientific knowledge of the landscape; and (2) community engagement. Even fires on the west side of the state, such as the Bonney Lake Fire in 2020, are becoming larger and more explosive. Due to the size and high threat, the whole local department was engaged and was not able to respond to other calls, including non-fire 911 calls. Pre-positioning additional firefighting equipment may give agencies a better chance to stop a fire and reduce the likelihood of lost homes and lives. High winds prevented aircraft from being used to fight the Malden fire. The Department of Natural Resources (DNR) has helped the Town of Malden replace one of the fire trucks that was lost. Thanks to mutual aid from multiple sources, no lives were lost during the fire in

Malden, but were lost after the fire due to the stress. Houses can be replaced, but not memories.

The Washington State Labor Council is very excited about the workforce training elements of the bill, including the idea of a post-release program, as it is a way to create jobs in rural communities. There is capacity at several community colleges throughout the state to provide the necessary skills. Wildfire does not care about borders or budget cycles. Proactive long-term investments are important. Workforce culture is an important factor in recruiting a diverse workforce.

The majority of common school trust land is forestland. Because forests are trust assets, it is important to protect those assets, and this bill does so. There should be amendments regarding the small forestland owner (SFLO) programs. There has been rapid change in land ownership, with many new SFLOs who are less experienced in forest management.

(Opposed) None.

(Other) The Cattlemen's Association commends the attention to the devastation that fire brings to the farming and ranching community, and generally supports the spirit of the bill. However, the cattlemen are concerned about the funding source, would like clarity on the environmental justice tools and how they would be used, and would like to see the ranching community represented on the Forest Health Advisory Committee. Elements of the bill align with the strategic planning goals of the Washington Prescribed Fire Council, but there are concerns that the bill could constrain work with other nongovernmental organizations. The fact that the bill does not contain a funding source is concerning. Everyone in the state would stand to benefit from the outcomes of the bill, so revenue should be provided from a source that everyone pays into. The Department of Commerce is neutral on the bill because it is not in the Governor's budget. Workforce development is necessary to unlock opportunities, and maintaining forest health goes hand-in-hand with economic development on many levels.

Staff Summary of Public Testimony (Appropriations):

(In support) Acres burned in Washington have increased dramatically over the last few decades, and the state cannot afford more seasons of catastrophic wildfires. Wildfire risk has only increased in recent years and wildfires are here to stay, but the investments made in the bill to prevent fire, reduce risk, and increase community resilience and workforce development will help reduce future firefighting and recovery costs. Community wildfire resilience is under-resourced, and the investments in the bill are appreciated. Washington voters are deeply concerned about wildfire response. The use of the term "wildfire" in the bill rather than "forest fire" is appreciated, as these fires do not burn exclusively in forests. The Department of Natural Resources continues to be willing to work with the Legislature to identify a funding source for the investments made in the bill.

(Opposed) None.

(Other) The insurance industry supports the efforts and principle of the bill, but the industry has been a target for funding the policy in the past. Any funding for the policies in this bill should come from a source paid by all state residents, as all residents would stand to benefit.

Persons Testifying (Rural Development, Agriculture & Natural Resources): (In support) Representative Springer, prime sponsor; Justin Allegro, The Nature Conservancy; Mara Machulsky, City of Walla Walla; Logan Endres, Washington State School Directors' Association; Mark Doumit, Washington Forest Protection Association; Carlene Anders, Okanogan County Long Term Recovery; Elaine Oneil, Washington Farm Forestry Association; Bud Backer, East Pierce Fire and Rescue; Micaela Razo-Araguz and Isabel Araguz, Latino Community Fund; Hilary Franz, Department of Natural Resources; Kevin Murphy, Woodland Park Zoo; Heath Heikkila, American Forest Resource Council; Dan Harwood, Town of Malden; Larry Brown, Washington State Labor Council; Carrie Nyssen, American Lung Association; Rodney Cawston, Confederated Tribes of the Colville Reservation; Laura Osiadacz, Kittitas County; Paul Jewell, Washington State Association of Counties; Giovanni Severino, Progreso: Latino Progress; Jasmine Minbashian, Methow Valley Citizens Council; Seamus Petrie, Washington Public Employees Association; and Alma Chacon, The Community for the Advancement of Family Education.

(Other) Chris Martin, Washington Prescribed Fire Council; Brian Hatfield, Department of Commerce; Ashley House, Washington Cattlemen's Association; and Kenton Brine, Northwest Insurance Council.

Persons Testifying (Appropriations): (In support) Representative Springer, prime sponsor; Jason Callahan, Washington Forest Protection Association; Justin Allegro, The Nature Conservancy; George Geissler and Tom Bugert, Washington State Department of Natural Resources; and Seamus Petrie, Washington Public Employees Association.

(Other) Kenton Brine, Northwest Insurance Council.

Persons Signed In To Testify But Not Testifying (Rural Development, Agriculture & Natural Resources): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.