

SENATE BILL REPORT

SB 5491

As of February 25, 2025

Title: An act relating to a prescribed fire claims fund pilot program.

Brief Description: Establishing a prescribed fire claims fund pilot program.

Sponsors: Senators Warnick, Shewmake, Short, Chapman, Lovelett, Muzzall, Holy, Krishnadasan and Nobles.

Brief History:

Committee Activity: Agriculture & Natural Resources: 2/10/25, 2/20/25 [DPS-WM].
Ways & Means: 2/25/25.

Brief Summary of First Substitute Bill

- Establishes a Prescribed Fire Claims Pilot Program to support coverage for losses from prescribed fires and cultural burning by certain nonstate and nonfederal entities.

SENATE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: That Substitute Senate Bill No. 5491 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Chapman, Chair; Krishnadasan, Vice Chair; Short, Ranking Member; Liias, Muzzall, Saldaña, Schoesler, Shewmake and Wagoner.

Staff: Jeff Olsen (786-7428)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Wendy Brown (786-7359)

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

Background: The Department of Natural Resources (DNR) has direct charge and responsibility over all matters relating to forest fire services in the state. DNR is also responsible for issuing and regulating permits for certain burning activities on lands under the DNR's fire protection authority, including silvicultural or prescribed burning. DNR maintains and implements the Smoke Management Plan to regulate burning on DNR-protected lands, and to meet requirements of the state Clean Air Act.

Prescribed burning is the controlled application of fire to wildland fuels under specific environmental conditions, which allow the fire to be confined to a predetermined area, and at the same time to produce the intensity and rate of spread required to attain planned management objectives.

The Office of Risk Management (ORM) administers the Self-Insurance Liability Program and also manages risk financing, provides loss prevention services, and administers the loss prevention review team program. ORM loss prevention program assists state agencies to reduce liability exposure, safeguard state assets, and reduce costs associated with state liability and property losses. The Risk Management Administration Account is used for the payment of costs for liability, property, and vehicle claims relating to settlements and judgments against the state.

Summary of Bill (First Substitute): ORM, in cooperation with DNR, shall establish a Prescribed Fire Claims Pilot Program (pilot program). The purpose of the pilot program is to support coverage for losses from prescribed fires and cultural burning by nonstate and nonfederal entities that have alleged to cause damage resulting from appropriately conducted prescribed fires or cultural burning. Eligible entities may include cultural fire practitioners, private landowners, nongovernmental entities, conservation districts, fire districts, certified burn managers, companies, contractors, and operators.

To be eligible for reimbursement, a claim must be from a prescribed fire or cultural burn conducted:

- by a certified burn manager, under an approved burn plan, with applicable permits and in accordance with any other applicable conditions or requirements as determined by DNR; or
- by a cultural fire practitioner, in accordance with any applicable burn plan or permit.

The claim must be for property or economic damage suffered by the claimant as a result of the prescribed fire or cultural burn. DNR may also claim reasonable costs authorized for reimbursement related to the prescribed fire or cultural burn.

Upon submission of a claim, DNR shall determine and certify to ORM whether the claim meets the eligibility criteria. ORM may reimburse an eligible claim up to \$2 million per claim. Payment of claims is conditional based on availability of funding. A claim suffered as a result of a fire caused by a criminal or negligent act is not eligible for reimbursement.

ORM shall collaborate with DNR and relevant stakeholders to establish guidelines for the pilot program including procedures for claim submission, criteria for claim eligibility, and prioritization of claims payment. ORM and DNR may adopt rules to implement the pilot program.

A Prescribed Fire Claims Account is created and expenditures from the account may be used for the reimbursement of claims. The Risk Management Administration Account may be used to pay for the administration of the pilot program.

The pilot program expires June 30, 2033.

EFFECT OF CHANGES MADE BY AGRICULTURE & NATURAL RESOURCES COMMITTEE (First Substitute):

- Expands intent language references to forestlands managed by fire to include other landscapes.
- Specifies that the pilot program may provide coverage for losses from burning by nonstate and nonfederal entities.
- Removes certain fire suppression costs of the Department of Natural Resources as an eligible claim.
- Modifies the definition of "cultural fire practitioner" to mean a person approved by an Indian tribe as having relevant burning experience.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill (Agriculture & Natural Resources): *The committee recommended a different version of the bill than what was heard.* PRO: This approach is modeled after legislation in Oregon, and it is designed to help prevent catastrophic wildfires. Historically, tribes set fires for grazing and protection, and these fires reduced fuel loads. Establishing a fund to address claims if a prescribed fire escapes will expand the use of this valuable tool. Prescribed fires are a very cost effective fuel management tool. Liability has been identified as a barrier that discourages the use of prescribed fire to reduce fuel loads. Washington has restarted the use of prescribed fires to prevent even larger fires. Forests have evolved with fire, and we need to encourage the use of prescribed fires.

OTHER: The bill should be expanded to include additional types of land including grasslands and wetlands. The current definition of a cultural fire practitioner is too broad

and should include a person approved by a federally recognized tribe. The bill should make it clear that a tribe is eligible to submit a claim.

Persons Testifying (Agriculture & Natural Resources): PRO: Senator Judy Warnick, Prime Sponsor; Chris Martin, WA Prescribed Fire Council; Ray Entz, Kalispel Tribe of Indians; Skippy Shaw, The Nature Conservancy; Pat Sullivan, Department of Natural Resources.

OTHER: Vice Chairwoman Loni Greninger, Jamestown S'Klallam Tribe.

Persons Signed In To Testify But Not Testifying (Agriculture & Natural Resources):
No one.

Staff Summary of Public Testimony (Ways & Means): PRO: This bill is about scaling up prescribed fire, which we need for forest health. We need prescribed burning to address catastrophic wildfire and to protect our communities. This bill will also, in the long term, reduce state costs incurred from wildfire suppression. The Nature Conservancy has been doing prescribed fire work for forest health for over sixty years. We know it works well and is one of the best tools we have for scaling up in Washington, which is desperately needed.

Prescribed fires are a vital tool for managing our state 's forest health, but because of liability concern, is underused in Washington State. California and Oregon have already adopted policies that allow for more opportunities for prescribed fire and for reducing risks. This bill will move Washington in that direction as well.

The intentional use of prescribed fire is one of our most effective tools to reduce the risk of catastrophic wildfire to our communities. The Washington Prescribed Fire Council sees this bill as an important step to incentivize certified burn managers and cultural burn practitioners to expand the practice of prescribed burning. We also see this bill as reducing cost for the state down the road.

Persons Testifying (Ways & Means): PRO: Skippy Shaw, The Nature Conservancy; Lucas King, WA Prescribed Fire Council; Pat Sullivan, Department of Natural Resources.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.