

SENATE BILL REPORT

SB 6766

As Reported by Senate Committee On:
Natural Resources, Ocean & Recreation, February 3, 2010
Ways & Means, March 17, 2010

Title: An act relating to forest fire prevention and suppression.

Brief Description: Concerning forest fire prevention and suppression.

Sponsors: Senators Hargrove, Swecker, Hatfield, Prentice and Brown.

Brief History:

Committee Activity: Natural Resources, Ocean & Recreation: 2/01/10, 2/03/10 [DPS-WM, DNP].

Ways & Means: 2/17/10, 2/22/10, 3/17/10 [DP2S, DNP, w/oRec].

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: That Substitute Senate Bill No. 6766 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove, Hatfield and Swecker.

Minority Report: Do not pass.

Signed by Senator Stevens.

Staff: Sherry McNamara (786-7402)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6766 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Fairley, Hobbs, Keiser, Kline, Kohl-Welles, McDermott, Murray, Pridemore, Regala and Rockefeller.

Minority Report: Do not pass.

Signed by Senators Carrell, Honeyford, Pflug and Schoesler.

Minority Report: That it be referred without recommendation.

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.

Signed by Senators Zarelli, Ranking Minority Member; Brandland, Hewitt and Parlette.

Staff: Maria Hovde (786-7710)

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

The current law defines forest land 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 forest land if such lands are adjacent to, or intermingled with tree growth. For protection purposes, forest land does not include structures.

Fire Protection Zones. DNR is responsible for working with the state's other fire control agencies to define geographic areas of responsibility. Fire protection zones include all forest land which DNR is obligated to protect but does not include forestland within rural or municipal fire districts.

Forest Fire Protection Assessments. The costs of forest fire protection are to be equitably shared between forest landowners and the state. Owners of forest land are under an obligation to provide forest fire protection on their land at a level that provides adequate protection against the spread of fire from or across their land.

However, if a landowner's property is located on forest land not included within the boundaries of certain rural or municipal fire districts, and the landowner fails to provide adequate protection against the spread of forest fire, then the landowner must pay to DNR a forest fire protection assessment (assessment).

Landowners paying the assessment are billed both at a flat rate and an additional rate according to the size of their forest land. All landowners must pay a flat rate assessment fee of \$17.50 per parcel. Landowners who own more than 50 acres of forest land must pay the flat fee plus an additional 27 cents per acre exceeding the 50 acres.

Forest Fire Protection Assessment Refunds. Qualifying landowners who pay assessments on multiple parcels may claim a refund for assessments. To qualify for the refund, a landowner must have paid assessments on more than one parcel less than 50 acres in size. The parcels must be located in the same county.

If the cumulative size of all parcels owned by the landowner is less than 50 acres, then the landowner is entitled to be refunded the \$17.50 assessment paid on all but one of the properties, less 50 cents per parcel retained for county administration. The landowner is not refunded the additional 27 cents per acre assessment paid for the acreage exceeding 50 acres.

Forest Fire Protection Liability. When DNR is acting in its fire prevention and suppression capacity, a duty is owed to the public in general and not to any individual or class of persons separate from the general public.

Summary of Bill (Recommended Second Substitute): The definition for unimproved lands is changed to mean those lands occupied by shrub-steppe vegetation and forest lands devoted primarily to production of livestock or agricultural commodities for commercial purposes. Unimproved lands do not include improved lands which are defined to mean property on which a structure is located not including roads, bridges, forest lands, or unimproved lands.

Fire Protection Zones. DNR's area of protection does not necessarily include all parcels paying a per parcel assessment. DNR is obligated to protect all state and privately owned unimproved lands located outside of fire protection districts as of January 1, 2010.

Forest Fire Protection Assessments: DNR is required to impose an annual per parcel assessment of \$4.95 on each taxable parcel of land within the state. DNR is required to impose a fire protection assessment on those lands it protects. The assessment rate is 27 cents per acre for parcels west of Okanogan, Chelan, Kittitas, Yakima, and Klickitat counties; and 29 cents per acre on all other parcels.

Landowners with multiple parcels located in one county may apply to DNR to pay for no more than ten parcel assessments. The per acreage assessment will be computed on all parcels but the per parcel assessment will be billed to a single parcel.

DNR is required to provide protection for forest land and nonforested, unimproved lands located outside of a fire protection district bound as of January 1, 2010. Land that is owned or administered by nonfederal public bodies or has tax-exempt status must pay the assessments.

Forest Fire Protection Assessment Refunds. As of January 1, 2011, landowners owning multiple small parcels within a single county will no longer be eligible for a refund of paid assessments.

Forest Fire Protection Liability. DNR's liability protection is expanded to include actions taken by the department within its discretionary authority that may prevent approaching wildfire from destroying or damaging personal property.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Second Substitute): The recommended second substitute:

- exempts parcels that are valued at less than \$500 from paying the \$4.95 per parcel assessment;
- exempts parcels that are exempt in whole or in part under the senior exemption from paying the \$4.95 per parcel assessment; and
- deposits, every fiscal year beginning in 2011, three percent of the revenue collected from the parcel assessments into the military department active state service account to be used for firefighting training.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES, OCEAN & RECREATION COMMITTEE (Recommended First Substitute): The recommended substitute:

- changes annual per parcel assessment on each taxable parcel of land from \$4.66 to \$4.95;
- changes the annual per acre assessment to 27 cents in western counties and 29 cents in eastern counties;
- allows property owners with multiple parcels in one county to pay no more than ten parcel assessments; and
- requires lands owned by state agencies, nonfederal public bodies and nonprofits to pay the forest protection assessments.

Appropriation: None.

Fiscal Note: Requested on January 25, 2010.
[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on January 1, 2011.

Staff Summary of Public Testimony on Original Bill (Natural Resources, Ocean & Recreation): PRO: This bill socializes the costs of fighting fires, as currently half of the money comes from the general fund. It extends fire protection coverage to unimproved lands, eliminates the costly and inefficient refund program, and allows DNR to protect structures. The assessment is higher on the eastside of the state due to the higher risk of fire.

OTHER: It removes state agencies and nonprofits from the obligation to pay the fire protection assessment, giving them a free ride on fire protection. The assessment split should be equitable.

Persons Testifying (Natural Resources, Ocean & Recreation): PRO: Senator Hargrove, prime sponsor; Jack Field, Washington Cattlemen's Association; Heath Packard, Joe Shramek, DNR; Paul Dahmer, Washington Department of Fish and Wildlife; Mike Brown, Washington Fire Chiefs.

OTHER: Ed McMillen, Lower Columbia Fish Enhancement Group; Tom Holt, Forest Capital Partners; John Ehrenreich, Washington Forest Protection Association.

Staff Summary of Public Testimony (Ways & Means): PRO: The forest fire protection assessments help to pay for activities to prevent fires and for activities that support DNR being ready to respond when the bell rings. This bill will end the reliance on the general fund for fire prevention. By spreading this fee to general taxpayers, small forest landowners will see a reduction in their assessments. Twenty to 25 percent of land is subject to forest practice restrictions and these costs are borne solely by the landowners. Maintaining this land benefits society so society can bear some of these costs. The bill incorporates sage brush land that is currently unprotected which will allow DNR to fight fires in these areas when they are small, which will prevent fires from spreading to structures.

CON: This bill results in an unfunded mandate on the counties because adding more parcels results in additional processing costs to reprogram systems. For the average taxpayer, a

forest fire protection assessment on their property tax bill will be perceived as an additional tax and it creates an expectation that paying the fee results in protection. It will be difficult to explain to some seniors who are currently exempt from paying property taxes why they are being billed for this assessment. DNR currently bills landowners who are not subject to property taxes. This process can be shifted to DNR and they can retain the .50 cents.

Persons Testifying (Ways & Means): PRO: Joe Shramek, DNR; Debora Munguia, Washington Forest Protection Association; Robert Meier, Rayonier; Wayne Vineyard, Hancock Forest Management; Brian Kernohan, Forest Capital Partners; Ryan Spiller, Washington Fire Commissioners; Jack Fields, Washington Cattlemen's Association; Scott Dahlman, Washington Farm Bureau.

CON: Bruce Walker, Pacific County Assessor; Dianne Dory, Washington State Association of Assessors, Lewis County Assessor; Robert Carlton, Washington State Association of Assessors.