

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 2440**

62nd Legislature  
2012 Regular Session

Passed by the House January 30, 2012  
Yeas 96 Nays 0

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**Speaker of the House of Representatives**

Passed by the Senate February 28, 2012  
Yeas 48 Nays 0

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2440** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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HOUSE BILL 2440

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Passed Legislature - 2012 Regular Session

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Wilcox, Blake, Chandler, Van De Wege, Warnick, McCune, Johnson, Stanford, Hurst, Hinkle, and Moscoso; by request of Commissioner of Public Lands

Read first time 01/13/12. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to authorizing the department of natural resources  
2 to provide wildfire protection services for public lands managed by  
3 state agencies; and amending RCW 76.04.015 and 76.04.135.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 76.04.015 and 2010 c 38 s 1 are each amended to read  
6 as follows:

7 (1) The department may, at its discretion, appoint trained  
8 personnel possessing the necessary qualifications to carry out the  
9 duties and supporting functions of the department and may determine  
10 their respective salaries.

11 (2) The department shall have direct charge of and supervision of  
12 all matters pertaining to the forest fire service of the state.

13 (3) The department shall:

14 (a) Enforce all laws within this chapter;

15 (b) Be empowered to take charge of and direct the work of  
16 suppressing forest fires;

17 (c)(i) Investigate the origin and cause of all forest fires to  
18 determine whether either a criminal act or negligence by any person,  
19 firm, or corporation caused the starting, spreading, or existence of

1 the fire. In conducting investigations, the department shall work  
2 cooperatively, to the extent possible, with utilities, property owners,  
3 and other interested parties to identify and preserve evidence. Except  
4 as provided otherwise in this subsection, the department in conducting  
5 investigations is authorized, without court order, to take possession  
6 or control of relevant evidence found in plain view and belonging to  
7 any person, firm, or corporation. To the extent possible, the  
8 department shall notify the person, firm, or corporation of its intent  
9 to take possession or control of the evidence. The person, firm, or  
10 corporation shall be afforded reasonable opportunity to view the  
11 evidence and, before the department takes possession or control of the  
12 evidence, also shall be afforded reasonable opportunity to examine,  
13 document, and photograph it. If the person, firm, or corporation  
14 objects in writing to the department's taking possession or control of  
15 the evidence, the department must either return the evidence within  
16 seven days after the day on which the department is provided with the  
17 written objections or obtain a court order authorizing the continued  
18 possession or control.

19 (ii) Absent a court order authorizing otherwise, the department may  
20 not take possession or control of evidence over the objection of the  
21 owner of the evidence if the evidence is used by the owner in  
22 conducting a business or in providing an electric utility service and  
23 the department's taking possession or control of the evidence would  
24 substantially and materially interfere with the operation of the  
25 business or provision of electric utility service.

26 (iii) Absent a court order authorizing otherwise, the department  
27 may not take possession or control of evidence over the objection of an  
28 electric utility when the evidence is not owned by the utility but has  
29 caused damage to property owned by the utility. However, this  
30 subsection (3)(c)(iii) does not apply if the department has notified  
31 the utility of its intent to take possession or control of the evidence  
32 and provided the utility with reasonable time to examine, document, and  
33 photograph the evidence.

34 (iv) Only personnel qualified to work on electrical equipment may  
35 take possession or control of evidence owned or controlled by an  
36 electric utility;

37 (d) Furnish notices or information to the public calling attention  
38 to forest fire dangers and the penalties for violation of this chapter;

1 (e) Be familiar with all timbered and cut-over areas of the state;  
2 and

3 (f) Regulate and control the official actions of its employees, the  
4 wardens, and the rangers.

5 (4) The department may:

6 (a) Authorize all needful and proper expenditures for forest  
7 protection;

8 (b) Adopt rules consistent with this section for the prevention,  
9 control, and suppression of forest fires as it considers necessary  
10 including but not limited to: Fire equipment and materials; use of  
11 personnel; and fire prevention standards and operating conditions  
12 including a provision for reducing these conditions where justified by  
13 local factors such as location and weather;

14 (c) Remove at will the commission of any ranger or suspend the  
15 authority of any warden;

16 (d) Inquire into:

17 (i) The extent, kind, value, and condition of all timber lands  
18 within the state;

19 (ii) The extent to which timber lands are being destroyed by fire  
20 and the damage thereon;

21 (e) Provide fire detection, prevention, presuppression, or  
22 suppression services on nonforested public lands managed by the  
23 department or another state agency, but only to the extent that  
24 providing these services does not interfere with or detract from the  
25 obligations set forth in subsection (3) of this section. If the  
26 department provides fire detection, prevention, presuppression, or  
27 suppression services on nonforested public lands managed by another  
28 state agency, the department must be fully reimbursed for the work  
29 through a cooperative agreement as provided for in RCW 76.04.135(1).

30 (5) Any rules adopted under this section for the suppression of  
31 forest fires must include a mechanism by which a local fire  
32 mobilization radio frequency, consistent with RCW 43.43.963, is  
33 identified and made available during the initial response to any forest  
34 fire that crosses jurisdictional lines so that all responders have  
35 access to communications during the response. Different initial  
36 response frequencies may be identified and used as appropriate in  
37 different geographic response areas. If the fire radio communication

1 needs escalate beyond the capability of the identified local radio  
2 frequency, the use of other available designated interoperability radio  
3 frequencies may be used.

4 (6) When the department considers it to be in the best interest of  
5 the state, it may cooperate with any agency of another state, the  
6 United States or any agency thereof, the Dominion of Canada or any  
7 agency or province thereof, and any county, town, corporation,  
8 individual, or Indian tribe within the state of Washington in forest  
9 firefighting and patrol.

10 **Sec. 2.** RCW 76.04.135 and 1986 c 100 s 14 are each amended to read  
11 as follows:

12 (1) For the purpose of promoting and facilitating cooperation  
13 ~~((between))~~ among fire protection agencies, including the department,  
14 and between the department and other agencies that manage lands owned  
15 by the state, and to more adequately protect life, property, and the  
16 natural resources of the state, the department may enter into a  
17 contract or agreement with a municipality, county, state, or federal  
18 agency to provide fire detection, prevention, presuppression, or  
19 suppression services on property which they are responsible to protect  
20 or manage.

21 (2) Contracts or agreements under subsection (1) of this section  
22 may contain provisions for the exchange of services on a cooperative  
23 basis or services in return for cash payment or other compensation.

24 (3) No charges may be made when the department determines that  
25 under a cooperative contract or agreement the assistance received from  
26 a municipality, county, or federal agency on state protected lands  
27 equals that provided by the state on municipal, county, or federal  
28 lands.

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