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**HOUSE BILL 2413**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Fitzgibbon, Frame, Pollet, Wylie, and Doglio; by request of Department of Natural Resources

AN ACT Relating to funding for wildfire prevention and preparedness activities; amending RCW 48.14.040; adding new sections to chapter 76.04 RCW; adding a new section to chapter 48.02 RCW; creating new sections; prescribing penalties; and providing an expiration date.

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

NEW SECTION. **Sec.**  (1) The legislature finds that the risk of catastrophic wildfire has significantly increased in recent years due in large part to a forest health crisis that exists in the state of Washington. In 2018, more than forty percent of wildfires occurred in western Washington, in 2019, over thirty percent of wildfires were west of the Cascade mountains, and more than two million acres have burned in the last five years alone. Communities in every corner of the state have felt the impact of these wildfires, either through direct loss of property or from the smoke resulting from wildfires that poses a serious risk to the health of vulnerable populations and the general public. Additionally, there are vulnerable populations, as identified in RCW 19.405.020, that face greater barriers to a healthy environment because of cumulative environmental hazards.

(2) The legislature finds that as a result of the wildfire and forest health crisis, it is necessary to dedicate resources in all areas of the state to restore our forests to health and to more effectively respond to wildfires in order to better protect the health and safety of children, families, communities, and our most vulnerable populations from the effects of catastrophic wildfires.

(3) It is the intent of the legislature to take immediate action to increase the resources required to implement the state's "20-year eastern forest health strategy," "10-year wildland fire protection strategy," and "forest action plan" including, but not limited to, restoring one million two hundred fifty thousand acres of diseased and dying forestland, providing resources to local fire service districts, adding additional wildland firefighters, enhancing and improving the capability to attack wildfires with air resources, and providing communities and vulnerable populations with the resources to prepare for wildfire.

(4) The legislature intends that these investments protect the state economy, environment, and people. Funding dedicated to implement the state's "20-year eastern forest health strategy," the "10-year wildland fire protection strategy," and the "forest action plan" will promote reductions in fire frequency and intensity, improve the state's ability to immediately and aggressively respond to wildfires, reduce wildfire damage to real and personal property, lessen postfire recovery costs and economic impacts, mitigate health costs of asthma and other respiratory ailments due to wildfire smoke, and provide investments for populations vulnerable to and impacted by wildfire.

NEW SECTION. **Sec.**  A new section is added to chapter 76.04 RCW to read as follows:

(1) The wildfire prevention and preparedness account is created in the state treasury. All receipts identified in this section must be deposited in the account. Moneys in the account may be spent only after appropriation.

(2) The moneys collected by the surcharge imposed under section 3 of this act must be deposited in the account and appropriated for the following priorities:

(a) Funding fire preparedness activities consistent with the goals contained in the "10-year wildland fire protection strategy" including, but not limited to, funding for full-time firefighters and investments in ground and aerial firefighting equipment and technology;

(b) Fire prevention activities consistent with the "20-year eastern forest health strategy," the "10-year wildland fire protection strategy," and the "forest action plan" including, but not limited to, the national fire protection association's firewise USA and the fire-adapted communities network programs to help communities take action before, during, and after wildfires. If necessary or advisable, the department may develop rules for the programs authorized under this subsection (2)(b);

(c) Activities to restore and improve forest health and reduce vulnerability to drought, insect infestation, disease, and other threats to healthy forests. These activities include forest management, such as thinning and use of prescribed fire, postfire recovery activities, such as reforestation, and research and design with respect to cross-laminate timber and other emerging products and markets for those products. Funding priority must be given to programs, activities, or projects aligned with the "20-year eastern forest health strategy," the "10-year wildland fire protection strategy," and the "forest action plan" prioritized pursuant to RCW 76.06.200 and 79.10.530 across any combination of local, state, federal, tribal, and private ownerships;

(d) Funding of fire prevention, preparedness, or recovery activities for other state agencies consistent with the "20-year eastern forest health strategy," the "10-year wildland fire protection strategy," and the "forest action plan"; and

(e) Funding for the investment in and maintenance of tracking and reporting systems to ensure accountability and transparency in wildfire prevention and preparedness activities and costs.

(3) Appropriations for forest health activities in each biennium must not be less than twenty-five million dollars.

(4) No expenditures from the wildfire prevention and preparedness account may be made without an appropriation.

(5) The legislature may direct the forest health advisory committee established in RCW 76.06.200 and wildland fire advisory committee established in RCW 76.04.179 to provide recommendations for investments under this section.

(6)(a) The forest health advisory committee and wildland fire advisory committee must use environmental justice or equity focused tools, such as the Washington tracking network's environmental health disparities tool, to identify highly impacted communities. Analysis of how to benefit these communities must be used as a factor in determining recommendations for investments under this section.

(b) For the purposes of (a) of this subsection, "highly impacted communities" has the same meaning as defined in RCW 19.405.020.

NEW SECTION. **Sec.**  A new section is added to chapter 48.02 RCW to read as follows:

(1) Beginning July 1, 2021, each property and casualty insurer, except a medical professional liability business, must collect a wildfire surcharge of five dollars per policy in this state during the previous calendar year. However, the minimum wildfire surcharge payment from any one property and casualty insurer in the state must not be less than one thousand dollars per year.

(2) Beginning July 15, 2021, wildfire surcharge payments are due and payable by July 15th of each year. Any property and casualty insurer failing to pay the wildfire surcharge by July 31st must pay the same penalties as the penalties for failure to pay taxes when due under RCW 48.14.060. The wildfire surcharge required by this section is in addition to all taxes and fees now imposed or that may be subsequently imposed.

(3) All moneys collected under this section must be deposited in the wildfire prevention and preparedness account created in section 2 of this act.

(4)(a) Each property and casualty insurer may annually collect wildfire surcharges remitted in preceding years by means of a policyholder surcharge on premiums charged for property and casualty insurance. The recoupment is at a uniform rate reasonably calculated to collect the wildfire surcharge remitted by the insurer.

(b) If an insurer fails to collect the entire amount of the recoupment in the first year under this section, it may repeat the recoupment procedure provided for in this subsection in succeeding years until the wildfire surcharge is fully collected or a de minimis amount remains uncollected. Any such de minimis amount may be collected as provided in (d) of this subsection.

(c) The amount and nature of any recoupment must be separately stated on either a billing or policy declaration sent to an insured. The amount of the recoupment must not be considered a premium for any purpose, including the premium tax or agents' commissions.

(d) An insurer may elect not to collect the wildfire surcharge from its insured. In such a case, the insurer may recoup the wildfire surcharge through its rates, if the following requirements are met:

(i) The insurer remits the amount of surcharge not collected by election under this subsection; and

(ii) The surcharge is not considered a premium for any purpose, including the premium tax or agents' commissions.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Property and casualty insurer" means every insurer, as defined in RCW 48.01.050, having a certificate of authority to do property and casualty business in this state.

(b) "Receipts" means net direct premiums consisting of direct gross premiums, as defined in RCW 48.18.170, paid for insurance written or renewed upon risks or property resident, situated, or to be performed in this state, less return premiums and premiums on policies not taken, dividends paid or credited to policyholders on direct business, and premiums received from policies or contracts issued in connection with qualified plans as defined in RCW 48.14.021.

**Sec.**  RCW 48.14.040 and 2008 c 217 s 7 are each amended to read as follows:

(1) If pursuant to the laws of any other state or country, any taxes, licenses, fees, deposits, or other obligations or prohibitions, in the aggregate, or additional to or at a net rate in excess of any such taxes, licenses, fees, deposits or other obligations or prohibitions imposed by the laws of this state upon like foreign or alien insurers and their appointed insurance producers or title insurance agents, are imposed on insurers of this state and their appointed insurance producers or title insurance agents doing business in such other state or country, a like rate, obligation or prohibition may be imposed by the commissioner, as to any item or combination of items involved, upon all insurers of such other state or country and their appointed insurance producers or title insurance agents doing business in this state, so long as such laws remain in force or are so applied.

(2) For the purposes of this section, an alien insurer may be deemed to be domiciled in the state wherein it has established its principal office or agency in the United States. If no such office or agency has been established, the domicile of the alien insurer ((~~shall be~~)) is deemed to be the country under the laws of which it is formed.

(3) For the purposes of this section, the regulatory surcharge imposed by RCW 48.02.190 ((~~shall~~)) and the wildfire surcharge imposed by section 3 of this act may not be included in the calculation of any retaliatory taxes, licenses, fees, deposits, or other obligations or prohibitions imposed under this section.

NEW SECTION. **Sec.**  A new section is added to chapter 76.04 RCW to read as follows:

(1) By July 1, 2025, and in compliance with RCW 43.01.036, the joint legislative audit and review committee, in consultation with the department and the office of the insurance commissioner, must report to the legislature on the following:

(a) The effectiveness of the expenditures made pursuant to section 2 of this act;

(b) The amount raised by the wildfire surcharge created in section 3 of this act; and

(c) The number and type of policies the wildfire surcharge created in section 3 of this act applies to.

(2) The joint legislative audit and review committee must include recommendations on any adjustments that may be necessary or advisable to the wildfire surcharge created in section 3 of this act, or the mechanism of funding dispensation as created in section 2 of this act.

(3) This section expires July 1, 2026.

NEW SECTION. **Sec.**  This act may be known and cited as the wildfire prevention and preparedness act.

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