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**SUBSTITUTE SENATE BILL 5996**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Van De Wege, Rolfes, Frockt, Billig, Keiser, Liias, Hunt, and Randall)

AN ACT Relating to funding fire prevention and suppression activities; amending RCW 48.14.040; adding new sections to chapter 76.04 RCW; adding a new section to chapter 48.02 RCW; creating a new section; providing an expiration date; and declaring an emergency.

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

NEW SECTION. **Sec.**  SHORT TITLE. Chapter . . ., Laws of 2019 (this act) may be known and cited as the wildfire prevention and suppression act.

NEW SECTION. **Sec.**  FINDINGS AND DETERMINATIONS. (1) The legislature finds that the risk of catastrophic wildfire has significantly increased in recent years and a forest health crisis exists in the state of Washington. In 2018, more than forty percent of wildfires occurred in western Washington 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 smoke resulting from wildfires, posing serious risks to vulnerable populations and the general public.

(2) The state and its local, federal, and tribal partners have been working to restore our forests to health, protect communities and firefighters from catastrophic fire, and protect the health and well-being of children and families, and need to increase the ability to respond to wildfires which have steadily increased in intensity and magnitude. Wildfire risk and forest health and resiliency is at a critical point of needing increased dedicated resources across to the entire state of Washington.

(3) It is the intent of the legislature to take immediate action to increase the resources required to restore 1.25 million acres of diseased and dying forestland, support local fire departments, hire new wildland firefighters, enhance and improve the wildfire air attack program, and provide communities the resources to prepare for wildfire prevention and suppression.

(4) The legislature intends that these investments protect the state economy and environment. Funding for effective fire suppression, initial attack, and forest health will promote reductions in fire frequency and intensity, improve ability to immediately and aggressively respond to wildfires, reduce postfire recovery costs and economic impacts, and mitigate health costs of asthma and other respiratory ailments due to wildfire smoke.

NEW SECTION. **Sec.**  WILDFIRE PREVENTION AND SUPPRESSION ACCOUNT. (1) The wildfire prevention and suppression account is created in the state treasury.

(2) The receipts collected by the surcharge imposed under section 4 of this act must be deposited and distributed for the following purposes listed in order of priority:

(a) Suppression fire costs incurred by the department as defined in RCW 76.04.005;

(b) Funding fire preparedness activities, including but not limited to funding for full-time firefighters, investments in aerial assets, firefighter training, and the creation of a fire training academy;

(c) Fire suppression, prevention, preparedness, or recovery activities for other state agencies as appropriate;

(d) Fire prevention, including firewise and fire-adapted communities programs to help communities take action before, during, and after wildfires. The department of natural resources must develop draft procedures, criteria, and, if necessary or advisable, rules for the programs authorized under this subsection;

(e) Activities to improve forest health and reduce vulnerability to drought, insect infestation, disease, and other threats to healthy forests. Funding priority must be given to programs, activities, or projects aligned with the twenty-year forest health plan and prioritized pursuant to RCW 76.06.200 and 79.10.530 across any combination of local, state, federal, tribal, and private ownerships.

(3) Forest health activities for each biennium are subject to the availability of amounts appropriated for this specific purpose.

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

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

(1) Beginning July 1, 2019, each property and casualty insurer, except a medical professional liability business, must pay a wildfire surcharge of 0.52 percent of receipts collected or received on business in this state during the previous calendar year. However, the minimum wildfire surcharge is one thousand dollars.

(2) The commissioner must annually, on or before July 1st, calculate and bill each property and casualty insurer for the amount of the wildfire surcharge. The wildfire surcharge is due and payable no later than 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 other 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 suppression account created in section 3 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 (4) 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 4 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.**  (1) By July 1, 2025, in compliance with RCW 43.01.036, the joint legislative audit and review committee, in consultation with the department of natural resources and the office of the insurance commissioner, must report to the legislature on the following:

(a) The effectiveness of the expenditures made by this act;

(b) The amount raised by the surcharge created in this act; and

(c) The number and type of policies the surcharge created in 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 surcharge created under this act, or the mechanism of funding dispensation as created under this act.

(3) This section expires July 1, 2026.

NEW SECTION. **Sec.**  Sections 1 through 3 of this act are each added to chapter 76.04 RCW with the subchapter heading of "WILDFIRE PREVENTION ACT."

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**