
HOUSE BILL 2086

State of Washington

67th Legislature

2022 Regular Session

By Representatives Dye, Sutherland, and Graham

Read first time 01/24/22. Referred to Committee on Rural Development, Agriculture & Natural Resources.

1 AN ACT Relating to aviation assurance funding in response to
2 wildland fires; amending RCW 76.04.511; and adding a new chapter to
3 Title 89 RCW.

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

5 NEW SECTION. **Sec. 1.** (1) Local fire departments in the state of
6 Washington serve as the frontline responders to wildland fires. The
7 fire chief of each local fire department with jurisdiction over
8 wildland fires is tasked with making rapid decisions, especially
9 during the summer months when weather conditions can cause fires to
10 rapidly enlarge. Flashy fuels, especially during times of low
11 humidity, can be ignited by a single spark and erupt into a rapidly
12 moving incident that can quickly destroy rangelands, ripe dryland
13 crops, and timberlands.

14 (2) Local fire departments often hold contracts with local
15 aviation companies that are certified to fly and drop fire retardants
16 and water to suppress or extinguish wildland fires quickly. Many of
17 these aviation companies also serve the state fire agency and federal
18 fire agencies during state mobilization events. The use of aviation
19 assets by trained air operations commands has proven to be a valuable
20 tool to prevent many wildland fires from requiring the response of

1 state mobilization and prevent the deployment of state and federal
2 fire agencies and their mobilization partner agencies.

3 (3) Further, the strategic use of aviation assets in initial
4 attack, or at times when conditions on the ground may warrant
5 additional air support, can prevent fires from becoming
6 uncontrollable. Local fire departments that use aviation assets on
7 initial attack can prevent most fires from requiring a state
8 mobilization. Providing financial assurances for local fire
9 departments to deploy aviation assets will provide greater protection
10 to our state's natural resources and air quality.

11 (4) The legislature intends to establish an office to administer
12 a pool of funding to support the use of local aviation companies
13 certified and trained to operate in wildland fires and drop fire
14 retardant or water to suppress or extinguish fires as an initial
15 attack strategy. Deployment and air operations command will be
16 conducted at the direction of trained air operations commanders.

17 (5) The legislature intends to allow reimbursement for invoices
18 of an aviation service utilized for early fire suppression in order
19 to provide assurance that a local fire department will have
20 sufficient financial capacity to effectively control wildland fires
21 throughout the length of the fire season. Having assurance that local
22 fire departments can afford to use aircraft under conditions that
23 would warrant their use and at the discretion of the local fire
24 department chief will create incentives to utilize aircraft more
25 quickly in order to rapidly suppress the fire and minimize damage to
26 lands, resources, and structures, and to protect regional air quality
27 during the fire season.

28 NEW SECTION. **Sec. 2.** (1) The aviation assurance fund office is
29 created and shall be located within the state conservation
30 commission.

31 (2) Staff support for the office shall be provided by the state
32 conservation commission.

33 (3) The aviation assurance fund office has the following
34 responsibilities:

35 (a) Convene and administer the aviation assurance fund board
36 established in section 3 of this act;

37 (b) Take such actions as may be necessary to administer and award
38 aviation assurance funding, as established in section 4 of this act,

1 to local fire suppression entities consistent with recommendations
2 made by the aviation assurance fund board; and

3 (c) Prepare and submit an annual report, consistent with RCW
4 43.01.036, to the standing committees of the legislature with
5 jurisdiction over wildland firefighting. The office must submit the
6 report no later than December 1st of each year. The report must
7 address, at a minimum, the following topics:

8 (i) The dollar value of aviation assurance funding utilized
9 during the year;

10 (ii) The recipients of aviation assurance funding during the
11 year;

12 (iii) The wildland fires on which aviation assurance funding was
13 utilized during the year, including names, locations, and sizes of
14 fires, the length of time it took to deploy aviation assets to a fire
15 once the decision was made to utilize aviation assets as part of the
16 wildland fire response, the amount of funding utilized on each of the
17 fires, and where appropriate, details regarding mobilization funds
18 made available by the state fire marshal for any of the fires; and

19 (iv) A review of lessons learned based on the preceding fire
20 season, along with recommendations for future improvements to the
21 wildland fire response process based on the lessons learned.

22 NEW SECTION. **Sec. 3.** (1) The aviation assurance fund office
23 must staff and convene the aviation assurance fund board pursuant to
24 the requirements set forth in this section.

25 (2) The aviation assurance fund board must consist of the
26 following members appointed by a majority of the voting members of
27 the state conservation commission:

28 (a) Two members representing local fire suppression entities
29 serving areas located to the east of the crest of the Cascade
30 mountains;

31 (b) One member representing a local fire suppression entity
32 located to the west of the crest of the Cascade mountains;

33 (c) One member representing the local wildland fire liaison
34 within the department of natural resources; and

35 (d) One member representing the state fire marshal.

36 (3) The aviation assurance fund board is responsible for:

37 (a) Reviewing the initial attack needs of local fire suppression
38 entities around the state;

1 (b) Establishing criteria to guide the award of aviation
2 assurance funding;

3 (c) Reviewing applications for aviation assurance funding and
4 making funding available consistent with the criteria established by
5 the board, based on a simple majority vote of the members of the
6 board;

7 (d) Entering into prequalification agreements at the beginning of
8 each fire season with local fire suppression entities that have been
9 awarded funding for that fire season; and

10 (e) Reviewing lessons learned from recent wildland fire responses
11 and developing recommendations for improvements to the state's
12 initial wildland fire attack capabilities, to be included in the
13 annual report submitted to the legislature pursuant to section 2 of
14 this act.

15 NEW SECTION. **Sec. 4.** (1) Subject to the availability of amounts
16 appropriated for this specific purpose, the aviation assurance fund
17 office is responsible for administering the aviation assurance
18 funding program pursuant to the requirements set forth in this
19 section.

20 (2) The office may use aviation assurance funding only to assist
21 local fire suppression entities with defraying the cost of
22 contracting for private aerial fire response capabilities during the
23 critical initial attack phase of fighting a wildland fire.

24 (3) The office may provide aviation assurance funding pursuant to
25 the aviation assurance fund board selection process established in
26 section 3 of this act.

27 (4) The office may award aviation assurance funding only on a
28 reimbursement basis to local fire suppression entities that meet the
29 following three requirements:

30 (a) The local fire suppression entity must have entered into a
31 prequalification agreement with the office prior to the beginning of
32 the fire season;

33 (b) The local fire suppression entity must have entered into a
34 preemptive service agreement with a qualified wildland fire
35 suppression contractor; and

36 (c) The local fire suppression entity must have incurred actual
37 costs during the wildland fire season to contract for private aerial
38 fire response capabilities during the initial attack phase of
39 fighting a wildland fire.

1 The preemptive service agreement must specify an agreed-upon
2 standard operating rate. The amount of reimbursement per wildland
3 fire incident may not exceed the amount specified in the
4 prequalification agreement entered into between the office and the
5 local fire suppression entity. Actual reimbursement awards are
6 subject to proration by the office if costs exceed amounts
7 appropriated for this purpose. For purposes of this chapter, "local
8 fire suppression entity" means a county or tribal fire department
9 that is responsible for suppression of wildland fires within its
10 jurisdiction.

11 (5) The office may not award aviation assurance funding in a
12 manner or at a rate that is inconsistent with either the
13 prequalification agreement or the preemptive service agreement
14 entered into between a local fire suppression entity and a qualified
15 wildland fire suppression contractor. Aviation assurance funding
16 provided to a local fire suppression entity in a calendar year may
17 not exceed the entity's actual invoiced costs to contract for private
18 aerial fire response capabilities during the initial attack phase of
19 fighting a wildland fire in the calendar year.

20 **Sec. 5.** RCW 76.04.511 and 2021 c 298 s 2 are each amended to
21 read as follows:

22 (1) The wildfire response, forest restoration, and community
23 resilience account is created in the state treasury. All receipts
24 from moneys directed to the account must be deposited in the account.
25 Moneys in the account may be spent only after appropriation.
26 Expenditures from the account may be used only for carrying out the
27 purposes of chapter 298, Laws of 2021 and for no other purposes.

28 (2) Expenditures from the account may be made to state agencies,
29 federally recognized tribes, local governments, fire and conservation
30 districts, nonprofit organizations, forest collaboratives, and small
31 forestland owners, consistent with the 20-year forest health
32 strategic plan, the wildland fire protection 10-year strategic plan,
33 ~~((and))~~ the Washington state forest action plan, and chapter 89.---
34 RCW (the new chapter created in section 6 of this act).

35 (3) The wildfire response, forest restoration, and community
36 resilience account may only be used to monitor, track, and implement
37 the following purposes:

38 (a) Fire preparedness activities consistent with the goals
39 contained in the state's wildland fire protection 10-year strategic

1 plan including, but not limited to, funding for firefighting capacity
2 and investments in ground and aerial firefighting resources,
3 equipment, and technology, and the development and implementation of
4 a wildland fire aviation support plan in order to expand and improve
5 the effectiveness and cost-efficiency of the department's wildland
6 fire aviation program;

7 (b) Fire prevention activities to restore and improve forest
8 health and reduce vulnerability to drought, insect infestation,
9 disease, and other threats to healthy forests including, but not
10 limited to, silvicultural treatments, seedling development, thinning
11 and prescribed fire, and postfire recovery activities to stabilize
12 and prevent unacceptable degradation to natural and cultural
13 resources and minimize threats to life and property resulting from
14 the effects of a wildfire. Funding priority under this subsection
15 must be given to programs, activities, or projects aligned with the
16 20-year forest health strategic plan, the wildland fire protection
17 10-year strategic plan, and the Washington state forest action plan
18 across any combination of local, state, federal, tribal, and private
19 ownerships;

20 (c) Fire protection activities for homes, properties,
21 communities, and values at risk including, but not limited to:
22 Potential control lines or strategic fuel breaks in forests and
23 rangelands near communities; improved warning and communications
24 systems to prepare for wildfires; increased engagement with non-
25 English speaking communities in their home language for community
26 preparedness; and the national fire protection association's fire
27 wise USA and the fire-adapted communities network programs to help
28 communities take action before wildfires.

29 (4) Appropriations for forest health activities funded by the
30 wildfire response, forest restoration, and community resilience
31 account shall not be less than 25 percent of the biennial
32 appropriated funding.

33 (5) Appropriations for community resilience activities funded by
34 the wildfire response, forest restoration, and community resilience
35 account shall not be less than 15 percent of the biennial
36 appropriated funding.

37 (6) Funding may not be used for emergency fire costs or
38 suppression costs as defined in RCW 76.04.005.

39 (7) To the maximum extent possible, workforce development
40 investments from the wildfire response, forest restoration, and

1 community resilience account should prioritize historically
2 marginalized, underrepresented, rural, and low-income communities.

3 (8) Any expenditures from the wildfire response, forest
4 restoration, and community resilience account for forest health
5 treatments on federal lands must be additive to the baseline
6 accomplishments and outputs already funded through the federal
7 government and outlined in the annual work plans of the United States
8 forest service, bureau of land management, the national park service,
9 and/or the United States fish and wildlife service.

10 (9) The department may solicit the forest health advisory
11 committee established in RCW 76.06.200 and wildland fire advisory
12 committee established in RCW 76.04.179 to provide recommendations for
13 investments under this section. In assessing investments and
14 developing recommendations for communities that will be impacted
15 based on ecological, public infrastructure, and life safety needs as
16 set forth in the 20-year forest health strategic plan and the
17 wildland fire protection 10-year strategic plan, the forest health
18 advisory committee and wildland fire advisory committee must use
19 environmental justice or equity focused tools, such as the Washington
20 tracking network's environmental health disparities tool to identify
21 highly impacted communities. This identification must be used as a
22 factor in determining recommendations for investments under this
23 section. "Highly impacted communities" has the same meaning as
24 defined in RCW 19.405.020.

25 (10) To the maximum extent practicable and where consistent with
26 the 20-year forest health strategic plan, the wildland fire
27 protection 10-year strategic plan, or the Washington state forest
28 action plan and landowner objectives, forest health treatments funded
29 through the wildfire response, forest restoration, and community
30 resilience account shall seek to utilize the value of any
31 merchantable materials to help offset treatment costs.

32 NEW SECTION. **Sec. 6.** Sections 1 through 4 of this act
33 constitute a new chapter in Title 89 RCW.

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