

SENATE BILL REPORT

SB 6632

As of February 3, 2016

Title: An act relating to wildfire management.

Brief Description: Concerning wildfire management.

Sponsors: Senators Braun, Parlette and Hargrove.

Brief History:

Committee Activity: Natural Resources & Parks: 2/03/16.

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Staff: Bonnie Kim (786-7316)

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.

Smoke Management Plan. The Washington State smoke management plan (Plan) was first adopted in 1969, and most recently updated in 1998, as an optional part of the state implementation plan (SIP) of the federal Clean Air Act. The Plan governs DNR-regulated silvicultural - forest land - burning, which includes all DNR fire protected lands; unimproved, federally managed forest lands; and participating tribal lands. The Plan does not pertain to agricultural burning or outdoor burning on improved property.

DNR is responsible for the overall administration of the Plan. Operating responsibilities are delegated to DNR region managers and other state and federal agencies for various activities. The Department of Ecology (Ecology) confers with DNR meteorologists regarding air quality determinations as needed for burn decisions. Emissions from silvicultural burning conducted in Eastern Washington to restore forest health are exempt from mandatory emissions reduction levels.

Prescribed Burning. Silvicultural or prescribed burning is governed by the state's smoke management plan. Prescribed burning is the controlled application of fire to wildland fuels under specific environmental conditions which allow the fire to be confined to a predetermined area, and at the same time to produce the fireline intensity and rate of spread required to attain planned management objectives. Prescribed burn project managers are often referred to as "burn bosses."

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.

Wildland Urban Interface (WUI) Code. The WUI Code is a model code developed and published by the International Code Council, Inc. (ICC). The ICC is a nonprofit organization that develops and publishes model codes for building, construction, and design standards. Updates to the codes are developed and published on a three-year cycle.

The WUI Code establishes minimum regulations for land use and the built environment in designated wildland-urban interface areas for the stated purpose of mitigating wildfire hazard. The WUI Code applies to the construction, alteration, movement, repair, maintenance, and use of any building, structure, or premises within the "wildland-urban interface areas" of a jurisdiction. "Wildland-urban interface area" is defined as the geographical areas where structures and other human development meets or intermingles with wildland or vegetative fuels.

Three counties in Washington - Clark, Kittitas, and Yakima - have adopted the WUI Code.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): State Fire Insurance. The Department of Enterprise Services (DES), in coordination with DNR, must investigate fire insurance policy options for the state. Preference is given to policies with a \$50 million deductible or less but DES is free to request information at a variety of deductible levels. DES must report on its findings to the Legislature by November 30, 2016.

Local Forest Fire Protection Divisions. Any county or counties may elect to form a local fire protection division to assume primary command over fire response in the county or participating counties. Forest fire protection assessment revenue collected from parcels within the county or counties are diverted for use by the local forest fire protection division.

20-Year Forest Health and Wildfire Prevention Strategic Plan. By December 31, 2017, DNR must develop and report to the Legislature a strategic plan to treat all 2.7 million acres in Eastern Washington in poor forest health. In developing the plan, DNR must consult with relevant local, state and federal agencies, tribes, forest landowners, representatives from milling and log transportation industries, and other interested parties from the nonprofit and commercial sectors. DNR's report must include its progress and fiscal information.

Prescribed Burn Manager Certification Program. DNR must create a non-mandatory certification program for prescribed burn managers. Certified prescribed burn managers are granted additional liability protection for permitted burns. DNR may set renewal criteria, add a decertification process for rule violators, and create an equivalency test for experienced burn bosses.

WUI Code. DNR must recommend incentives for fire-prone counties to adopt the ICC WUI Code.

Smoke Management Plan. By December 31, 2017, DNR must update the smoke management plan as follows:

- Consult with Ecology, other relevant state and federal agencies, and public and private landowners engaged in silvicultural forest burning.
- Increase the minimum thresholds for large fire burn permits to 1000 tons in areas near communities or prone to inversions and 2000 tons for pile burns in low risk areas.
- Issue 48-hour forecasts, in addition to a 24-hour forecast, to increase predictability for permitted prescribed burns.
- Authorize individual prescribed burns 24 hours prior to ignition of the fire rather than requiring a prescribed burn manager to call in the morning of the day of a burn for a burn decision.
 - Any burn decision made 24 hours in advance is subject to change if meteorological conditions or conditions affecting smoke dispersion are different from those anticipated and either pose an imminent and significant threat to public health or would cause a violation of air quality standards.
- Prioritize burn projects according to the public benefits, including forest health, wildfire prevention, safety, and public health.
- Clarify the criteria it considers when determining whether a burn "has the potential to affect communities" with respect to multiple day burns to add additional requirements.
- Cooperate with prescribed burn managers with multiple day burn permits to ensure predictability and to maximize opportunities to burn on each day of the approved multiple day burn permit.

DNR may not deny a prescribed burn solely on the potential for smoke intrusions into communities unless there is clear evidence of an imminent and significant threat to public health or clear evidence that the smoke intrusion will cause a violation of air quality standards.

Preventing Fire Spread. DNR must provide water storage containers and hoses to local fire-prone communities and, when reasonable, to landowners to use to put out embers or fire brands that fall on their property. DNR must also provide public education regarding the safest methods in putting out embers or fire brands and dousing areas around property and structures to prevent fire spread.

DNR may partner with local governmental entities and other relevant organizations to carry out the program. No civil liability may be imposed by any court on the state for any adverse impacts resulting from training or equipment provided by DNR for this program except upon proof of gross negligence or willful or wanton misconduct.

Intergovernmental Cooperation Agreements. DNR must enter into discussions with the federal agencies managing land in the state with the objective of entering into or updating existing memoranda of understandings or contracts regarding forest health and wildfire management. In particular, DNR must address the following issues:

- cost and labor sharing agreements for forest health treatments conducted on federally-owned lands;
- timelines and measurable forest health improvement goals reachable within 10 years of the date of agreement;
- streamlining processes to share fire protection resources across jurisdictional lines; and

- improving interagency cooperation to facilitate rapid initial response to fire. For example, DNR may agree with a federal partner to share in attacking wildfires along common ownership boundaries and exchange assistance free of charge across agency jurisdictions during the first 24 hours of a fire.

DNR must report on its progress by December 31, 2016.

Appropriation: None.

Fiscal Note: Requested on February 2, 2016.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on First Substitute: PRO: We will spend \$200 million on firefighting this year. We should use this committee's best policy ideas as the basis of our budget discussion in the Ways and Means committee. My focus is on prevention and coordination. There must be quick response to fire and we must engage our local communities and restore forest health. We need to increase the rate and pace of prescribed fire and thinning throughout WA. We support the creation of a strategic plan and Nature Conservancy would like to participate. Protecting homes through adoption of the WUI Code is a great step forward. The section creating a local fire division could add to the bureaucracy of fire management. WDFW thinks the strategic plan is a fantastic idea and looks forward to working with DNR in developing the plan.

OTHER: There is a lack of a clear source of funding for local fire districts. A severity fund that supports local areas in initial attack is the best way to support our local communities. The county-system in the bill may result in a slower and weaker fire attack system. DNR would remove resources out of participating counties and would be slower to respond in case they are needed. This bill might have unintended consequences. WA may be placed in conflict with national standards. Prescribed burning for forest management might compete with an agricultural burn that needs to happen at the same time. DNR thinks the strategic plan is a great idea and is happy to do it with appropriate funding. We have to manage particular matter and ozone and smog levels under federal standards. Forest fires may have contributed to exceedances last year.

Persons Testifying on First Substitute: PRO: Senator Braun, prime sponsor; Scott Richards, The Nature Conservancy; Clay Sprague, WDFW.

OTHER: Craig Kenworthy, Puget Sound Clean Air Agency; Aaron Everett, Mary Verner, Department of Natural Resources; Seamus Petrie, Washington Public Employees Association.

Persons Signed In To Testify But Not Testifying on First Substitute: No one.