H-1222.1

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**HOUSE BILL 1940**

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

**By** Representatives Kretz and Blake

AN ACT Relating to providing wildland fire response resources in the first forty-eight hours of a wildland fire; amending RCW 43.43.960; adding a new section to chapter 76.04 RCW; adding a new section to chapter 52.12 RCW; adding new sections to chapter 43.43 RCW; and declaring an emergency.

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

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

(1) Within one hour of receiving notification or otherwise learning of an active wildfire, the department must determine whether department resources are readily available to be deployed for initial suppression. If, during the first forty-eight hours of response to the wildfire, the department determines that nondepartment resources, including private firefighting resources, are able to respond more quickly to the wildfire than department resources, the department shall, except in instances of significant cost disparity, retain and deploy nondepartment resources, including private firefighting resources pursuant to RCW 76.04.181, for the first forty-eight hours of wildfire response.

(2) No civil liability may be imposed by any court on the state, the department, or the officers and employees of the state or department for any direct or proximate adverse impacts resulting from the actions taken under this section during initial suppression, or the actions and activities of the private firefighting resources utilized by the department under subsection (1) of this section, except upon proof of gross negligence or willful or wanton misconduct by the department, its employees, or the private firefighting resources utilized by the department under subsection (1) of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 52.12 RCW to read as follows:

(1) Within one hour of receiving notification or otherwise learning of an active wildfire on unimproved property or unprotected property, a nonfederal fire protection service agency must determine whether resources other than those belonging to the nonfederal fire protection service agency, including private firefighting resources, are readily available to be deployed for initial suppression. If, during the first forty-eight hours of response to the wildfire, a nonfederal fire protection service agency department determines that resources other than those belonging to the nonfederal fire protection service agency, including private firefighting resources, are able to respond more quickly to the wildfire than resources belonging to the nonfederal fire protection service agency, the nonfederal fire protection service agency shall, except in instances of significant cost disparity, retain and deploy resources other than those belonging to the nonfederal fire protection service agency, including private firefighting resources pursuant to RCW 76.04.181, for the first forty-eight hours of wildfire response.

(2) No civil liability may be imposed by any court on the nonfederal fire protection service agency or the officers and employees of the nonfederal fire protection service agency for any direct or proximate adverse impacts resulting from the actions taken under this section during initial suppression, or the actions and activities of private firefighting resources utilized by the nonfederal fire protection service agency under subsection (1) of this section, except upon proof of gross negligence or willful or wanton misconduct by the department, its employees, or the private firefighting resources utilized by the nonfederal fire protection service agency under subsection (1) of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 43.43 RCW under the subchapter heading "state fire service mobilization" to read as follows:

(1) The state fire marshal shall establish and manage a premobilization assistance program designed to provide financial assistance to a local fire protection service agency for the cost of contracting for wildland fire response equipment including, but not limited to, bulldozers, water trucks, and aircraft, during the first forty-eight hours of response to a wildland fire, for the purpose of preventing wildland fires from escalating to a level where state fire mobilization becomes necessary.

(2) The state fire marshal shall provide reimbursement to a local fire protection service agency of up to ten thousand dollars per wildland fire incident for the cost of contracting for wildland fire response equipment during the first forty-eight hours of response to a wildland fire. If the cost to a local fire protection service agency exceeds ten thousand dollars, the state fire marshal may approve additional funding of up to ten thousand dollars. Total reimbursement from the premobilization assistance program to a local fire protection service agency may not exceed twenty thousand dollars per wildland fire incident.

(3) The state fire marshal is not required to provide funding to the premobilization assistance program beyond the amount specifically appropriated by the legislature for that purpose.

(4) A local fire protection service agency may request reimbursement from the state fire marshal under the premobilization assistance program for costs incurred in connection with contracting for wildland fire response equipment including, but not limited to, bulldozers, water trucks, and aircraft, during the first forty-eight hours of response to a wildland fire. If the wildland fire incident for which reimbursement is sought involved assistance by the department of natural resources or state fire service mobilization, reimbursement is available only for costs incurred in connection with contracting for wildland fire response equipment prior to the involvement of the department of natural resources or state fire service mobilization. Any request for reimbursement from the premobilization assistance program must be supported by copies of receipts for costs incurred in order to be eligible for reimbursement.

**Sec.**  RCW 43.43.960 and 2003 c 405 s 1 are each amended to read as follows:

((~~Unless the context clearly requires otherwise,~~)) The definitions in this section apply throughout this subchapter unless the context clearly requires otherwise.

(1) "Chief" means the chief of the Washington state patrol.

(2) "State fire marshal" means the director of fire protection in the Washington state patrol.

(3) "Fire chief" includes the chief officer of a statutorily authorized fire agency, or the fire chief's authorized representative. Also included are the department of natural resources fire control chief, and the department of natural resources regional managers.

(4) "Jurisdiction" means state, county, city, fire district, or port district firefighting units, or other units covered by this chapter.

(5) "Local fire protection service agency" means any local governmental entity responsible for the provision of firefighting services, including fire protection districts, regional fire protection service authorities, cities, towns, and port districts.

(6)(a) "Mobilization" means that firefighting resources beyond those available through existing agreements will be requested and, when available, sent in response to an emergency or disaster situation that has exceeded the capabilities of available local resources. During a large scale emergency, mobilization includes the redistribution of regional or statewide firefighting resources to either direct emergency incident assignments or to assignment in communities where firefighting resources are needed.

(b) When mobilization is declared and authorized as provided in this chapter, all firefighting resources including those of the host fire protection authorities, i.e. incident jurisdiction, shall be deemed as mobilized under this chapter, including those that responded earlier under existing mutual aid or other agreement. All nonhost fire protection authorities providing firefighting resources in response to a mobilization declaration shall be eligible for expense reimbursement as provided by this chapter from the time of the mobilization declaration.

(c) This chapter shall not reduce or suspend the authority or responsibility of the department of natural resources under chapter 76.04 RCW.

((~~(6)~~)) (7) "Mutual aid" means emergency interagency assistance provided without compensation under an agreement between jurisdictions under chapter 39.34 RCW.

NEW SECTION. **Sec.**  A new section is added to chapter 43.43 RCW under the subchapter heading "state fire service mobilization" to read as follows:

The state fire marshal shall, consistent with RCW 43.01.036, provide a report to the appropriate committees of the legislature on the use of the premobilization assistance program established in section 3 of this act. The report is due by December 1, 2025, and must include the following elements:

(1) The number of local fire protection service agencies suppression entities that requested resources from the program;

(2) The names and geographic jurisdictions of the local fire protection service agencies that requested resources from the program; and

(3) A description and, if available, the name of each incident for which premobilization assistance program resources were requested including: Ignition date and location; total number of acres burned; types of resources deployed; and a timeline of key events.

NEW SECTION. **Sec.**  Sections 1 through 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

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