

HOUSE BILL REPORT

ESHB 1498

As Passed House:

March 8, 2023

Title: An act relating to aviation assurance funding in response to wildland fires.

Brief Description: Concerning aviation assurance funding in response to wildland fires.

Sponsors: House Committee on Agriculture and Natural Resources (originally sponsored by Representatives Dye, Dent, Christian, Schmidt, Eslick, Graham and Volz).

Brief History:

Committee Activity:

Agriculture and Natural Resources: 2/3/23, 2/15/23 [DPS];

Appropriations: 2/23/23, 2/24/23 [DPS(AGNR)].

Floor Activity:

Passed House: 3/8/23, 97-0.

Brief Summary of Engrossed Substitute Bill

- Directs the Department of Natural Resources (DNR) to prepare and submit an appendix on aviation usage by local and tribal fire departments for initial attack as a part of its annual wildfire report to the standing committees of the Legislature with jurisdiction over wildland firefighting.
- Requires the DNR to consult with the State Fire Defense Committee, tribal fire service representatives, and the State Fire Marshal's Office annually to review aviation program performance and determine aviation needs for the following fire year.
- Directs the DNR, subject to appropriation, to use wildfire suppression funding to assist local and tribal fire departments with aerial fire response capabilities during the initial attack phase of fighting a wildland fire, subject to certain specified requirements.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

- Requires the DNR to convene a work group composed of wildfire aviation subject matter experts, wildfire aviation contractors, fire service representatives, wildland fire management staff, and other partners to develop a state certification program for aircraft and pilots used in wildfire suppression.

HOUSE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Chapman, Chair; Morgan, Vice Chair; Reeves, Vice Chair; Dent, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Kloba, Kretz, Lekanoff, Orcutt, Schmick and Springer.

Staff: Robert Hatfield (786-7117).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Agriculture and Natural Resources be substituted therefor and the substitute bill do pass. Signed by 30 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg, Chandler, Chopp, Connors, Couture, Davis, Dye, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Steele, Stonier and Tharinger.

Staff: Dan Jones (786-7118).

Background:

Local Wildland Fire Liaison.

The Commissioner of Public Lands (Commissioner) must appoint a local wildland fire liaison to represent the interests and concerns of landowners and the general public during any Department of Natural Resources (DNR) fire suppression activities. The role of the local wildland fire liaison is, among other things, to advise the Commissioner on landowner concerns and the availability of local fire suppression assets.

State Fire Services Mobilization.

During an emergency, when a local jurisdiction needs assistance beyond the capabilities of local resources and mutual aid agreements, a request may be made for a state fire service mobilization (Mobilization). Mobilization means that all risk resources regularly provided by fire departments, fire districts, and regional fire protection service authorities 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 risk resources to either direct emergency incident assignments or to assignments in communities where resources are needed.

The Chief of the Washington State Patrol (WSP) has the authority to mobilize jurisdictions under the Washington State Fire Services Mobilization Plan (Mobilization Plan). The purpose of the Mobilization Plan is to provide a mechanism and process to quickly notify, assemble, and deploy fire service personnel and equipment to any local fire jurisdiction in Washington that has expended or will expend all available local and mutual aid resources in attempting to manage fires, disasters, or other events that jeopardize the ability of a jurisdiction to provide for the protection of life and property. The State Fire Marshal in the WSP serves as the state fire resources coordinator when a Mobilization Plan is initiated.

Summary of Engrossed Substitute Bill:

The Department of Natural Resources (DNR) must prepare and submit an appendix on aviation usage by local and tribal fire departments for initial attack as a part of its annual wildfire report to the standing committees of the Legislature with jurisdiction over wildland firefighting. The DNR must submit the report by December 1 of each year. The report must address, at a minimum, the following topics:

- the dollar value of funding utilized by local and tribal fire departments for initial attack aviation during the year;
- the specific local and tribal fire departments that utilized this funding during the year;
- the wildland fires on which suppression funding was utilized to provide local and tribal fire departments initial attack aviation resources during the year, including names, locations, and sizes of fires, and amount of funding utilized on each of the fires; and
- a review of lessons learned related to aviation use by local and tribal fire departments for initial attack based on the preceding fire season, along with recommendations for future improvements to the wildland fire response process based on the lessons learned.

The DNR must consult with the State Fire Defense Committee, tribal fire service representatives, and the State Fire Marshal's Office annually to review aviation program performance and determine aviation needs for the following fire year.

Subject to the availability of funding, the DNR must use suppression funding to assist local and tribal fire departments with aerial fire response capabilities during the critical initial attack phase of fighting a wildland fire.

The DNR must use suppression funding to assist local or tribal fire departments with initial attacks that meet the following requirements:

- The local or tribal fire department must have entered into a response agreement with

the DNR.

- The aviation assets used in initial attack must come from a list of private contractors approved by the DNR on exclusive use or call-when-needed agreements based upon the annual review of aviation response and aviation needs.
- Local and tribal fire departments must make direct requests to the appropriate coordination center, including the Central Washington Interagency Coordination Center, the Northeast Washington Interagency Coordination Center, the Blue Mountain Interagency Coordination Center, or the DNR Coordination Center, in order to ensure the safe coordination of all aircraft.

The DNR must convene a work group composed of wildfire aviation subject matter experts, wildfire aviation contractors, fire service representatives, wildland fire management staff, and other partners to develop a state certification program for aircraft and pilots used in wildfire suppression. The DNR must include the findings of the work group in a report to be submitted to the Wildfire Advisory Committee and appropriate committees of the Legislature by December 1, 2025.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Agriculture and Natural Resources):

(In support) Local fire districts are the front line in responding to many wildland fires. Local fire districts are supported through local taxes. They are responsible for fighting all fires within their jurisdiction. Local fire chiefs make decisions daily throughout the fire season about the resources they can deploy in an incident, whether ground assets or other assets, public assets or private. There are close partnerships between local fire districts and the Department of Natural Resources (DNR) and the United States Forest Service (USFS) as they fight complex fires when fires are beyond the capacity of the local fire district. The bill provides a needed tool; it assures local fire departments that they will have funding available needed to fight the fires in their jurisdiction. This would provide fire districts certainty that they will have the assets needed in the event that a fire requires aerial assets. There would be no need to call the state prior to each incident, because the decision would be made by the local fire department. Without the assurance fund in this bill, local fire districts have to make rapid decisions based on the money remaining in the budget. Some of these fires can be controlled by something as little as a few loads of water from a helicopter or air tanker. This bill fills in the gaps so that fire districts can make the call in the first few minutes. This can be the difference between a small fire and one in the hundreds of thousands of acres, with significant smoke and carbon dioxide emissions.

When a wildfire starts out in some parts of the state, if there is not a quick aggressive attack, the fire will almost certainly get big enough that it results in being eligible to receive support from the state mobilization program, which can cost millions. There is often very little that ground-based firefighting forces alone can do in the shrub-steppe habitat. But adding air attack to ground forces can be very effective at keeping these fires from going big enough to require state mobilization. The bill encourages authorizing fire departments to call in air assets on unprotected lands outside of their jurisdiction, as well as on land owned by agencies. The State Conservation Commission would do an excellent job at running this program. It would be good to have landowner representation on the funding board. One recent fire could have been put out for a few thousand dollars in air assets, but because it did not have air assets to fight the fire, it grew to more than 45,000 acres. Some of these fires have destroyed pygmy rabbit habitat.

This bill has incredible potential to aid fire departments across the state, and to save the state a lot of money. Fire districts are charged with protecting their district; it is not within the DNR's jurisdiction to protect land covered by a fire district. By the end of 2021 more than 100,000 acres had burned in Asotin county. There are many acres of no-man's land with no fire protection. These fires have destroyed riparian habitat. With more support for aerial assets, there would be less damage to range and crop lands, and it would also lead to reduced restoration costs. If this program were successful even just a few times across the state, it would likely save many millions of dollars in costs. One fire department has been successfully using air assets for decades with no safety concerns. The bottom line for small fire departments is asking whether to spend money on air attack, or spending money on needed fire equipment. This bill will eliminate the need for state mobilization.

Programs similar to the one proposed in the bill are already being used in Idaho. It would be good to add wording to the bill that would allow for fire watch flights on red flag days.

Local fire assets are capable of responding quickly to wildfires. It is important to get on a fire quickly and economically, in order to stop a fire in its tracks. Fire districts already are training with private air assets, and private assets are already well integrated with the USFS and the DNR. Private air assets are qualified to work on fires with the USFS and the DNR. If you can reduce costs through preventive maintenance, it makes sense to do that maintenance, and this bill is a version of preventive maintenance.

(Opposed) One significant concern with the bill is that it would tap into the Forest Resilience Account, which would take money away from providing other resources to local fire districts. The bill would create duplicative efforts. The DNR will provide pre-positioned air attack planes during the upcoming fire season in Pasco, and the DNR is also working on an aviation support plan; it would make more sense for this bill to plug into those efforts.

Staff Summary of Public Testimony (Appropriations):

(In support) This bill recognizes that many fire departments would like to be using air assets for initial attack in fighting wildfires, but sometimes cannot afford to do so because the initial cost for air assets can be very high relative to a constrained fire district budget. Time matters when fighting wildfires, especially in dryer areas with flashy fuels. Large wildfires can lead to poor air quality and can also be a significant source of carbon dioxide emissions.

This bill offers great possibilities. The bill is truly a win-win for the state and for fire departments. Air support services have a proven record of success in fighting wildfires, but they can also be a burden on local fire department budgets. This bill will save the state funding by allowing wildfires to be caught before they are big enough to qualify for state fire service mobilization. There is a lag between an initial attack and being able to receive services through state mobilization. The bill could potentially save millions in fire response funding by keeping fires small.

This policy has been in the works for many years. Initial attack on wildfires is very successful and keeps the vast majority of fires small. The bill includes valuable reporting and review requirements.

One of the greatest things aircraft offer for wildfire response is quick initial attack. Quick initial attack keeps fires from becoming large and costly. Putting lots of response resources on a wildfire early puts the fire out, and then those resources are free to respond to other fires.

(Opposed) None.

(Other) There are concerns with the bill. The bill does not utilize the state fire mobilization plan, which already provides air assets. There are also challenges to implementing the bill, including that there must be an agreement in place before air assets can be requested, and that the bill does not require the use of the closest available fire response forces, which may actually hamper initial attack.

Persons Testifying (Agriculture and Natural Resources): (In support) Representative Mary Dye, prime sponsor; Molly Linville; Noel Hardin, Asotin County Fire Protection District #1; Arden Tom Jensen, Washington Pilots Association; and Jim Pope, Leading Edge Aviation.

(Opposed) Brian Considine, Department of Natural Resources.

(Other) Ron Shultz, Washington State Conservation Commission.

Persons Testifying (Appropriations): (In support) Representative Mary Dye, prime sponsor; Noel Hardin, Asotin County Fire District No. 1; Brian Considine, Department of Natural Resources; and Robert Bell.

(Other) Leonard Johnson, Washington Fire Defense Committee and Washington Fire Chiefs

Association.

Persons Signed In To Testify But Not Testifying (Agriculture and Natural Resources):
None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.