

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2440

Chapter 38, Laws of 2012

62nd Legislature
2012 Regular Session

WILDFIRE PROTECTION SERVICES--PUBLIC LANDS

EFFECTIVE DATE: 06/07/12

Passed by the House January 30, 2012
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate February 28, 2012
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved March 15, 2012, 2:19 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2440** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

March 15, 2012

**Secretary of State
State of Washington**

HOUSE BILL 2440

Passed Legislature - 2012 Regular Session

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Wilcox, Blake, Chandler, Van De Wege, Warnick, McCune, Johnson, Stanford, Hurst, Hinkle, and Moscoso; by request of Commissioner of Public Lands

Read first time 01/13/12. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to authorizing the department of natural resources
2 to provide wildfire protection services for public lands managed by
3 state agencies; and amending RCW 76.04.015 and 76.04.135.

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

5 **Sec. 1.** RCW 76.04.015 and 2010 c 38 s 1 are each amended to read
6 as follows:

7 (1) The department may, at its discretion, appoint trained
8 personnel possessing the necessary qualifications to carry out the
9 duties and supporting functions of the department and may determine
10 their respective salaries.

11 (2) The department shall have direct charge of and supervision of
12 all matters pertaining to the forest fire service of the state.

13 (3) The department shall:

14 (a) Enforce all laws within this chapter;

15 (b) Be empowered to take charge of and direct the work of
16 suppressing forest fires;

17 (c)(i) Investigate the origin and cause of all forest fires to
18 determine whether either a criminal act or negligence by any person,
19 firm, or corporation caused the starting, spreading, or existence of

1 the fire. In conducting investigations, the department shall work
2 cooperatively, to the extent possible, with utilities, property owners,
3 and other interested parties to identify and preserve evidence. Except
4 as provided otherwise in this subsection, the department in conducting
5 investigations is authorized, without court order, to take possession
6 or control of relevant evidence found in plain view and belonging to
7 any person, firm, or corporation. To the extent possible, the
8 department shall notify the person, firm, or corporation of its intent
9 to take possession or control of the evidence. The person, firm, or
10 corporation shall be afforded reasonable opportunity to view the
11 evidence and, before the department takes possession or control of the
12 evidence, also shall be afforded reasonable opportunity to examine,
13 document, and photograph it. If the person, firm, or corporation
14 objects in writing to the department's taking possession or control of
15 the evidence, the department must either return the evidence within
16 seven days after the day on which the department is provided with the
17 written objections or obtain a court order authorizing the continued
18 possession or control.

19 (ii) Absent a court order authorizing otherwise, the department may
20 not take possession or control of evidence over the objection of the
21 owner of the evidence if the evidence is used by the owner in
22 conducting a business or in providing an electric utility service and
23 the department's taking possession or control of the evidence would
24 substantially and materially interfere with the operation of the
25 business or provision of electric utility service.

26 (iii) Absent a court order authorizing otherwise, the department
27 may not take possession or control of evidence over the objection of an
28 electric utility when the evidence is not owned by the utility but has
29 caused damage to property owned by the utility. However, this
30 subsection (3)(c)(iii) does not apply if the department has notified
31 the utility of its intent to take possession or control of the evidence
32 and provided the utility with reasonable time to examine, document, and
33 photograph the evidence.

34 (iv) Only personnel qualified to work on electrical equipment may
35 take possession or control of evidence owned or controlled by an
36 electric utility;

37 (d) Furnish notices or information to the public calling attention
38 to forest fire dangers and the penalties for violation of this chapter;

1 (e) Be familiar with all timbered and cut-over areas of the state;
2 and

3 (f) Regulate and control the official actions of its employees, the
4 wardens, and the rangers.

5 (4) The department may:

6 (a) Authorize all needful and proper expenditures for forest
7 protection;

8 (b) Adopt rules consistent with this section for the prevention,
9 control, and suppression of forest fires as it considers necessary
10 including but not limited to: Fire equipment and materials; use of
11 personnel; and fire prevention standards and operating conditions
12 including a provision for reducing these conditions where justified by
13 local factors such as location and weather;

14 (c) Remove at will the commission of any ranger or suspend the
15 authority of any warden;

16 (d) Inquire into:

17 (i) The extent, kind, value, and condition of all timber lands
18 within the state;

19 (ii) The extent to which timber lands are being destroyed by fire
20 and the damage thereon;

21 (e) Provide fire detection, prevention, presuppression, or
22 suppression services on nonforested public lands managed by the
23 department or another state agency, but only to the extent that
24 providing these services does not interfere with or detract from the
25 obligations set forth in subsection (3) of this section. If the
26 department provides fire detection, prevention, presuppression, or
27 suppression services on nonforested public lands managed by another
28 state agency, the department must be fully reimbursed for the work
29 through a cooperative agreement as provided for in RCW 76.04.135(1).

30 (5) Any rules adopted under this section for the suppression of
31 forest fires must include a mechanism by which a local fire
32 mobilization radio frequency, consistent with RCW 43.43.963, is
33 identified and made available during the initial response to any forest
34 fire that crosses jurisdictional lines so that all responders have
35 access to communications during the response. Different initial
36 response frequencies may be identified and used as appropriate in
37 different geographic response areas. If the fire radio communication

1 needs escalate beyond the capability of the identified local radio
2 frequency, the use of other available designated interoperability radio
3 frequencies may be used.

4 (6) When the department considers it to be in the best interest of
5 the state, it may cooperate with any agency of another state, the
6 United States or any agency thereof, the Dominion of Canada or any
7 agency or province thereof, and any county, town, corporation,
8 individual, or Indian tribe within the state of Washington in forest
9 firefighting and patrol.

10 **Sec. 2.** RCW 76.04.135 and 1986 c 100 s 14 are each amended to read
11 as follows:

12 (1) For the purpose of promoting and facilitating cooperation
13 (~~between~~) among fire protection agencies, including the department,
14 and between the department and other agencies that manage lands owned
15 by the state, and to more adequately protect life, property, and the
16 natural resources of the state, the department may enter into a
17 contract or agreement with a municipality, county, state, or federal
18 agency to provide fire detection, prevention, presuppression, or
19 suppression services on property which they are responsible to protect
20 or manage.

21 (2) Contracts or agreements under subsection (1) of this section
22 may contain provisions for the exchange of services on a cooperative
23 basis or services in return for cash payment or other compensation.

24 (3) No charges may be made when the department determines that
25 under a cooperative contract or agreement the assistance received from
26 a municipality, county, or federal agency on state protected lands
27 equals that provided by the state on municipal, county, or federal
28 lands.

Passed by the House January 30, 2012.

Passed by the Senate February 28, 2012.

Approved by the Governor March 15, 2012.

Filed in Office of Secretary of State March 15, 2012.