H-0251.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 1509**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Kretz, Blake, Reykdal, and Condotta

AN ACT Relating to giving priority selection to forest fire suppression resource contractors that are located geographically close to fire suppression activities; amending RCW 76.04.015, 76.04.105, and 76.04.155; and adding a new section to chapter 76.04 RCW.

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

**Sec.**  RCW 76.04.015 and 2012 c 38 s 1 are each amended to read as follows:

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

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

(3) The department shall:

(a) Enforce all laws within this chapter;

(b) Be empowered to take charge of and direct the work of suppressing forest fires consistent with section 2 of this act;

(c)(i) Investigate the origin and cause of all forest fires to determine whether either a criminal act or negligence by any person, firm, or corporation caused the starting, spreading, or existence of the fire. In conducting investigations, the department shall work cooperatively, to the extent possible, with utilities, property owners, and other interested parties to identify and preserve evidence. Except as provided otherwise in this subsection, the department in conducting investigations is authorized, without court order, to take possession or control of relevant evidence found in plain view and belonging to any person, firm, or corporation. To the extent possible, the department shall notify the person, firm, or corporation of its intent to take possession or control of the evidence. The person, firm, or corporation shall be afforded reasonable opportunity to view the evidence and, before the department takes possession or control of the evidence, also shall be afforded reasonable opportunity to examine, document, and photograph it. If the person, firm, or corporation objects in writing to the department's taking possession or control of the evidence, the department must either return the evidence within seven days after the day on which the department is provided with the written objections or obtain a court order authorizing the continued possession or control.

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

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

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

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

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

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

(4) The department may:

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

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

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

(d) Inquire into:

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

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

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

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

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

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

(1)(a) In implementing the authority to direct the work of forest fire suppression in RCW 76.04.015, the department must give first priority to fire suppression resource contractors that are located geographically closer to the actual fire suppression activities, and thereby capable of responding sooner, over similarly capable fire suppression resource contractors located geographically further from the fire suppression activities.

(b) The selection of fire suppression resources based on geographic location and response speed capability must be given priority over:

(i) Whether the contractor is a public or private resource or a warden appointed under RCW 76.04.035; and

(ii) Except in instances of significant price disparity, the comparable costs of the possible available resources. Comparable costs may only be considered in resource prioritization if the total cost of the more geographically distant resource is anticipated to be less than the total cost of the geographically closer resource considering the added total fire suppression cost resulting from the delay in resource delivery incurred by selecting the more geographically distant resource.

(2) The department must take administrative steps prior to the actual commencement of fire suppression activities to ensure the efficient implementation of this section. These steps may include:

(a) Outreach and training to the various possible fire resource dispatch operations;

(b) The creation of memorandums of understanding or other agreements intended to identify and preemptively negotiate with local fire suppression resource contractors in the various fire prone communities of the state;

(c) The creation of formal working relationships with county governments that allows a role for a county to liaison between the department and the available and preemptively identified fire suppression resource contractors based in the county; and

(d) Any other preemptive, administrative action deemed beneficial by the department in the implementation of this section.

**Sec.**  RCW 76.04.105 and 1986 c 100 s 11 are each amended to read as follows:

(1) The department may, consistent with the provisions of this chapter, enter into contracts and undertakings with private corporations for the protection and development of the forest lands within the state((~~, subject to the provisions of this chapter~~)).

(2) During an active fire suppression response, the department must select private contractors consistent with the prioritization requirements provided in section 2 of this act.

**Sec.**  RCW 76.04.155 and 1986 c 100 s 16 are each amended to read as follows:

(1) The department may employ a sufficient number of persons to extinguish or prevent the spreading of any fire that may be in danger of damaging or destroying any timber or other property on department protected lands. The department may provide needed tools and supplies and may provide transportation when necessary for persons so employed.

(2) Every person so employed is entitled to compensation at a rate to be fixed by the department. The department shall, upon request, show the person the number of hours worked by that person and the rate established for payment. After approval of the department, that person is entitled to receive payment from the state.

(3) When appropriate, the department must select persons to employ in a manner consistent with the prioritization requirements provided in section 2 of this act.

(4) It is unlawful to fail to render assistance when called upon by the department to aid in guarding or extinguishing any fire.

**--- END ---**