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**SUBSTITUTE HOUSE BILL 2596**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** House Agriculture & Natural Resources (originally sponsored by Representatives Dye, Blake, Kretz, Tharinger, Short, Schmick, McCabe, Haler, Rossetti, Muri, Condotta, and Springer)

AN ACT Relating to reducing the occurrences of small wildland fires escalating into catastrophic fires through the creation of a mechanism to better equip local wildland fire suppression entities in their immediate, local suppression activities; amending RCW 43.30.111 and 43.88.550; reenacting and amending RCW 76.04.005; adding new sections to chapter 76.04 RCW; creating a new section; and providing an expiration date.

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) The local wildland fire severity account is created in the state treasury. All moneys appropriated to the account by law and any applicable cost match payments made by a local suppression entity under section 2 of this act must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used by the department to provide funding for immediate, local wildland fire response consistent with section 2 of this act.

(2) All appropriations to the local wildland fire severity account are separate and in addition to all base wildfire suppression appropriations provided directly to the department.

(3) Every two years as part of its budget request process under chapter 43.88 RCW, the department shall prepare a budget request for the local wildland fire severity account based on the demand on the account in recent biennia and the anticipated fire conditions for the requested biennium.

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

(1) A local suppression entity that has satisfied the prerequisites established in this section may, upon confirmation of the start of a wildland fire within its jurisdiction or area of response, submit a request to the department or the state fire marshal for an expenditure from the local wildland fire severity account to fund an immediate local suppression effort or provide access to prepositioned fire suppression resources. The department must accept the confirmation provided by the local suppression entity and must implement the provisions of this section without first independently confirming the reported start of the wildland fire.

(2) The department shall, consistent with this section and upon request by a local suppression entity for an expenditure from the local wildland fire severity account, take either or all of the following actions within thirty minutes of the request:

(a) Release the requested money, or as much of the requested money as is appropriate, from the local wildland fire severity account to the requesting local suppression entity to be used for immediate suppression efforts;

(b) Provide a guaranteed level of reimbursement, and a timeline for reimbursement, from the local wildland fire severity account to the requesting local suppression entity for immediate suppression efforts undertaken by the local suppression entity;

(c) Release department-controlled suppression assets, including aerial assets, to the requesting local suppression entity to be used for immediate suppression efforts.

(3)(a) A local suppression entity that receives money, reimbursement, or assets under this section is responsible for matching ten percent of the value received from the local wildland fire severity account unless the local suppression entity can confirm that their local suppression efforts completely contained the fire within six hours of receiving the support. There is no cost match requirement if the local suppression entity achieves the six-hour containment. In the event that the six-hour containment goal is not met, the measure of the local suppression entity's cost match requirement is the value it received from the local wildland fire severity account for the time used after the six-hour suppression effort, but prior to any state mobilization response for the fire, and not ten percent of the overall fire response cost incurred by the local suppression entity, the state government, the federal government, or any other response partners.

(b) Cost match payments by local suppression entities must be made to the department within one year of the receipt of support from the local wildland fire severity account. All cost match payments received by the department must be deposited into the local wildland fire severity account.

(c) In lieu of making payments to the department, a local suppression entity may contribute any cost match by using in-kind services, including the use of existing staff, equipment, and volunteers.

(d) The local wildland fire liaison may intervene as a mediator in the event of a disagreement between the department and a local suppression entity arising from the cost match requirements of this section.

(4) As a prerequisite to receiving resources or assets under this section, a local suppression entity must establish agreements, prior to its funding request, with the department and, as applicable, with other local suppression entities and private contractors in the general vicinity of the requesting local suppression entity's jurisdiction. The purpose of these agreements is to ensure that the release of resources or assets under this section is well planned.

(5)(a) The costs of fulfilling the requests of local suppression entities under this section must be incurred initially by the department out of its base wildfire suppression appropriation. The department may reimburse itself from the local wildland fire severity account for the costs incurred fulfilling requests under this section within the same fiscal biennium of incurring the costs.

(b) If the costs incurred by the department under this section exceed the balance in the local wildland fire severity account, the department may continue to implement this section and may receive reimbursements for the costs incurred by subsequent supplemental legislative appropriations to the local wildland fire severity account.

(6)(a) A local suppression entity seeking certainty in funding or reimbursement under this section prior to initiating suppression activities under this chapter must first notify the department that it has confirmed the start of a wildland fire in its jurisdiction, its proposed suppression actions, and the estimated total costs.

(b) Upon a request for reimbursement by a local suppression entity, the department must make the local suppression entity aware of the timeline for reimbursement. The department may assure reimbursement for up to two years following the suppression action. The department must maintain, and is authorized to pay, reimbursements for suppression activities that occurred in a previous fiscal biennium.

(7) Nothing in this section creates or infers additional liability on the department, a local suppression entity, or a contractor of the department or a local suppression entity in any suppression efforts funded through the local wildland fire severity account or for the failure to fund suppression efforts.

(8) Nothing in this section affects the ability of the department to preposition fire suppression resources deemed necessary or beneficial by the department both before and during a state mobilization.

NEW SECTION. **Sec.**  (1) The department of natural resources must present a report to the legislature, consistent with RCW 43.01.036, by October 31, 2018, that summarizes the demand placed on the local wildland fire severity account and an estimate of a funding level for the local wildland fire severity account that would more accurately match the demand on the account.

(2) This section expires June 30, 2019.

**Sec.**  RCW 43.30.111 and 2015 c 182 s 1 are each amended to read as follows:

(1) The commissioner must appoint a local wildland fire liaison that reports directly to the commissioner or the supervisor and generally represents the interests and concerns of landowners and the general public during any fire suppression activities of the department.

(2) The role of the local wildland fire liaison is to provide advice to the commissioner on issues such as access to land during fire suppression activities, the availability of local fire suppression assets, environmental concerns, and landowner interests.

(3) The local wildland fire liaison may also serve as a mediator between the department and recipients of local fire suppression funding as provided in section 2 of this act.

(4) In appointing the local wildland fire liaison, the commissioner must consult with county legislative authorities either directly or through an organization that represents the interests of county legislative authorities.

((~~(4)~~)) (5) All requirements in this section are subject to the availability of amounts appropriated for the specific purposes described.

**Sec.**  RCW 76.04.005 and 2015 c 182 s 7 are each reenacted and amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Additional fire hazard" means a condition existing on any land in the state:

(a) Covered wholly or in part by forest debris which is likely to further the spread of fire and thereby endanger life or property; or

(b) When, due to the effects of disturbance agents, broken, down, dead, or dying trees exist on forest land in sufficient quantity to be likely to further the spread of fire within areas covered by a forest health hazard warning or order issued by the commissioner of public lands under RCW 76.06.180. The term "additional fire hazard" does not include green trees or snags left standing in upland or riparian areas under the provisions of RCW 76.04.465 or chapter 76.09 RCW.

(2) "Closed season" means the period between April 15th and October 15th, unless the department designates different dates because of prevailing fire weather conditions.

(3) "Commissioner" means the commissioner of public lands.

(4) "Department" means the department of natural resources, or its authorized representatives, as defined in chapter 43.30 RCW.

(5) "Department protected lands" means all lands subject to the forest protection assessment under RCW 76.04.610 or covered under contract or agreement pursuant to RCW 76.04.135 by the department.

(6) "Disturbance agent" means those forces that damage or kill significant numbers of forest trees, such as insects, diseases, wind storms, ice storms, and fires.

(7) "Emergency fire costs" means those costs incurred or approved by the department for emergency forest fire suppression, including the employment of personnel, rental of equipment, and purchase of supplies over and above costs regularly budgeted and provided for nonemergency fire expenses for the biennium in which the costs occur.

(8) "Exploding target" means a device that is designed or marketed to ignite or explode when struck by firearm ammunition or other projectiles.

(9) "Forest debris" includes forest slash, chips, and any other vegetative residue resulting from activities on forest land.

(10) "Forest fire service" includes all wardens, rangers, and other persons employed especially for preventing or fighting forest fires.

(11) "Forest land" means any unimproved lands which have enough trees, standing or down, or flammable material, to constitute in the judgment of the department, a fire menace to life or property. Sagebrush and grass areas east of the summit of the Cascade mountains may be considered forest lands when such areas are adjacent to or intermingled with areas supporting tree growth. Forest land, for protection purposes, does not include structures.

(12) "Forest landowner," "owner of forest land," "landowner," or "owner" means the owner or the person in possession of any public or private forest land.

(13) "Forest material" means forest slash, chips, timber, standing or down, or other vegetation.

(14) "Incendiary ammunition" means ammunition that is designed to ignite or explode upon impact with or penetration of a target or designed to trace its course in the air with a trail of smoke, chemical incandescence, or fire.

(15) "Landowner operation" means every activity, and supporting activities, of a forest landowner and the landowner's agents, employees, or independent contractors or permittees in the management and use of forest land subject to the forest protection assessment under RCW 76.04.610 for the primary benefit of the owner. The term includes, but is not limited to, the growing and harvesting of forest products, the development of transportation systems, the utilization of minerals or other natural resources, and the clearing of land. The term does not include recreational and/or residential activities not associated with these enumerated activities.

(16) "Local fire suppression assets" means firefighting equipment that is located in close proximity to the wildland fire and that meets department standards and requirements.

(17) "Local wildland fire liaison" means the person appointed by the commissioner to serve as the local wildland fire liaison as provided in RCW 43.30.111.

(18) "Participating landowner" means an owner of forest land whose land is subject to the forest protection assessment under RCW 76.04.610.

(19) "Sky lantern" means an unmanned self-contained luminary device that uses heated air produced by an open flame or produced by another source to become or remain airborne.

(20) "Slash" means organic forest debris such as tree tops, limbs, brush, and other dead flammable material remaining on forest land as a result of a landowner operation.

(21) "Slash burning" means the planned and controlled burning of forest debris on forest lands by broadcast burning, underburning, pile burning, or other means, for the purposes of silviculture, hazard abatement, or reduction and prevention or elimination of a fire hazard.

(22) "Suppression" means all activities involved in the containment and control of forest fires, including the patrolling thereof until such fires are extinguished or considered by the department to pose no further threat to life or property.

(23) "Unimproved lands" means those lands that will support grass, brush and tree growth, or other flammable material when such lands are not cleared or cultivated and, in the opinion of the department, are a fire menace to life and property.

(24) "Local suppression entity" means a city, county, fire department, fire district, or other nonstate, nonfederal public entity responsible for suppressing wildland fires within its jurisdiction.

(25) "Local wildland fire severity account" means the account created in section 1 of this act to assist in funding immediate, local suppression efforts.

**Sec.**  RCW 43.88.550 and 1989 c 362 s 3 are each amended to read as follows:

(1) Based on schedules submitted by the director of financial management, the state treasurer shall transfer from the general fund—state, or such other funds as the state treasurer deems appropriate, to the Clarke-McNary fund such amounts as are necessary to meet unbudgeted forest firefighting expenses, including expenses incurred from the implementation of section 2 of this act.

(2) All amounts borrowed under the authority of this section shall be repaid to the appropriate fund, together with interest at a rate determined by the state treasurer to be equivalent to the return on investments of the state treasury during the period the amounts are borrowed.

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